

Sent: Wednesday, 15 December 2010 6:03 PM

Subject: RE: Online Privacy - questions on notice

In answer to QoN 1, 'Does the genuineness of consent differ in an offline context?':

It shouldn't, but in practice it may (and probably does). There are a number of factors which may lessen a consumer's (or business') understanding of what they are consenting to. Offline transactions are more familiar to consumers whereas online transactions involve factors often not considered by the consumer, namely that:

- a. the transaction may be with an entity not governed under Australian law;
- b. the data disclosed in the transaction may (or will probably) be used for secondary or other purposes beyond those envisaged by the consumer;
- c. third parties facilitating the transaction or even merely present may be collecting and using transactional data (web browser, android applications, iphone apps, etc);
- d. once data is created electronically, it is rarely deleted and acquires a permanency and accessibility unlike hardcopy records.

Genuine consent requires that consumers/businesses be aware of these factors before entering into a transaction/interaction. Experience to date suggests that they are not and therefore the genuineness of their consent is lessened.

Moreover, social and financial pressure is increasing on consumers/businesses to interact online. Goods are cheaper, bills lower when paid online and social networking sites have reached ubiquitous levels; the pressure to interact/transact online has increased, but the understanding of that transaction/interaction has decreased. In practice, this lack of knowledge reduces the 'genuineness' of consent in online transactions/interactions.

I hope this answers QoN1 and please feel free to contact me for further clarification if required.

Kind regards,

Georgia King-Siem
Vice-President
Liberty Victoria