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LEGAL LANGUAGE IN THE DIGITAL ENVIRONMENT: A REVIEW OF LANGUAGE SIMPLIFICATION PROJECTS

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Abstract

Ordinary subscribers face difficulties in understanding legal language, jargon, legislation and contract terms included in the privacy policies or terms of services used in the digital services, especially in smartphone apps. In particular, software developers are expected to include simpler language to comply with the legal provisions, and the users demand clearer language in the privacy policies or terms of services of the apps to provide informed consent. This paper reviews two projects that aim to simplify legal languages, one for developers and one for users. The primary aim of these projects is to encourage clearer legal language and provide reforms and proposals to improve current practices. It has been revealed that these efforts to simplify legal

language are applied to specific categories and narrow fields and do not replace the original legal documents.

Keywords

Legal Language, Apps, Developers, Users, Icons, Guideline

1. Introduction

Laws, legislation and regulations are generally introduced, after considering various factors, with one important reason, i.e. People for whom these are enacted will comply them. Same is the case for smartphone apps where the regulators from around the world have been setting rules and regulations for the developers and subscribers to comply with. However, while the developers of these apps, to comply with these rules and regulations and to avoid the legal responsibilities use complex sentences, jargons and legal language in the privacy policies or terms of services, most users find these difficult to comprehend.

Several researchers found that the privacy policies or terms of services are ‘highly technical in practice, with its obscure legal jargon, specific semantics, articulated procedures, complex hierarchy of sources and proliferating jurisprudence’, and also ‘contain long, complex sentences; specialized jargon; archaic, inflated vocabulary and impersonal constructions’ (Zych, 2018; Sleimi, 2020). In other words, the language of legislation and laws is complex and specialized, so it is not easy for ordinary people to read and understand. The ambiguity and complexity of legal terms and their expressions exist not only in laws and regulations, they also exist in contracts between parties, though the aim of a contract is to state the rights and obligations of each party, what the deal is and what their expectations should be (Passera, Pohjonen, Koskelainen & Anttila, 2013), The failure of either party to understand the contract does not achieve that fundamental objective. In fact, these problems with legal language go back decades (Zych, 2018). This means that solutions and initiatives for clarifying legal language will take time for reform and implementation.

With people turning to smartphones and apps, the problem of the complexity of legal language has moved into the digital environment. In particular, software developers struggle to understand long-standing laws and regulations to enable them to apply these in the terms and conditions of apps for smartphones. For example, a lay developer who does not have a legal background has to read and understand the General Data Protection Regulation (GDPR), which

has 11 chapters and 99 articles, to implement an app compatible with this legislation. This means that the developer with no legal background must make a great effort to understand the laws and their details. In addition, users struggle to read the cumbersome terms and conditions and privacy policies as legal contracts before they agree with them. The privacy policy in the Snapchat app, for example, contains about 4500 words that the user must read in the privacy policy. This does not include the additional 5000 words of the terms and conditions and other legal documents, such as Snap Advertising Policies and Product Sales Terms and Conditions (Snapchat Inc, 2021). This means that users face a significant challenge in reviewing the many contracts, regulations and policies. Consequently, there have been multiple calls to facilitate the language of law, legislation and contracts for ordinary people (Hatamian, 2020).

Some researchers claim that making the law understandable to everyone is an idealistic postulate. Nevertheless, the idea of facilitating and simplifying law, legislation and legal language has been proposed (Zych, 2018). There are many initiatives to simplify or clarify legal texts and contracts. One example is Legal Design, which means re-stating legal documents and information in a more attractive and interactive way and on specific bases (Kohlmeier & Klemola, 2021). Another is a visual guide, which reformats contracts to make them easier to visualize and provides the details in the manner of an overview (Passera, Pohjonen, Koskelainen & Anttila, 2013). Some use images or even cartoons to illustrate legal ideas (Liebenberg, 2012). Others use artificial intelligence and algorithms to achieve legal automation (Pasquale, 2019).

This paper aims to address two initiatives used for simplifying legal language. The first one is for software developers, creating a legal and technical guideline that helps them understand legislation and laws so that they can build and program apps in a better way (Hatamian, 2020). The second one is for the users, providing privacy icons to simplify and clarify the privacy policies of those apps (Apple Inc., 2021). This paper evaluates the two projects and identifies areas where the two models could be enhanced and developed.

2. Objectives

This manuscript aims to achieve two main goals:

1. To encourage initiatives and projects in facilitating and simplifying the legal language to achieve higher protection for consumers and users;

2. To contribute to the development of current projects in simplifying and facilitating the legal language for non-legal professionals in the digital environment.

3. Theoretical Framework

The most crucial legislation and laws related to research and the most important theories related to the topic of the manuscript were reviewed in this section. There are basically many international legislation and regulations concerned with consumer protection and privacy in the digital environment. Perhaps, one of these legislations is the OECD Guidelines for Consumer Protection in the Context of Electronic Commerce (1999), in which many issues that protect consumers in the digital environment, such as user consent and language used in writing contracts. Additionally, the OECD released The Consumer Protection in E-commerce Recommendation to achieve more significant user protection. For example, it was mentioned that ‘businesses should not engage in deceptive practices related to the collection and use of consumers’ personal data’ (OECD, 2016). The sharing of users' data without their permission is not only prevented by it but consumers are prevented by it from being deceived into unfairly sharing their data. The other legislation is The United Nations Guidelines for Consumer Protection. This legislation contains consumer rights to protection. For example, it is stated that contracts should be clear and understandable. It is also mentioned that ‘clear, concise and easy to understand contract terms that are not unfair’ (United Nations, 2016).

Regarding the privacy legislation of some countries, perhaps the two most important pieces of legislation are (1) The European Union’s GDPR and (2) The California Consumer Privacy Act (CCPA). The GDPR has extensive detail in regulating consumer data protection and protection, such as regulating data sharing, withdrawing consent and practising data minimisation. CCPA contains several regulations protecting the consumer and his data, such as the right of the user to prevent the sale of his data and providing an Opt-out link.

There are many theories associated with the field of research, one of which is behavioural science theory. It is claimed in this theory that parties in standard contracts do not have equal access to contract information. Particularly, while the service provider writes and drafts the agreement, the consumer usually does not read or view the contract. Therefore, the solution proposed is to simplify and facilitate contracts so that users understand their rights and duties (Machuletz & Böhme, 2019). Additionally, some researchers claim that the information economic

context should be considered in contracts and contract theories since problems with a contract containing undesigned or unformatted information are reduced by contract design and coordination (Arbi, 2021). The issue of the format and structure of legal documents that have a role in understanding users and preventing problems between contract parties are raised in this theory. The importance and role of simplifying legal language information in understanding the meanings of legal documents are pointed out in these two theories.

3.1. Scope of Study

This manuscript seeks to review only two projects to simplify the legal language in the digital environment related to a privacy issue as legislation and policy. The first project targeted smartphone users, and the other was targeted at smartphone app developers to diversify the initiatives discussed in this paper. Thus, initiatives in traditional contracts or legislation written in physical documents were not discussed in the manuscript. Additionally, although initiatives to simplify the language were somewhat many, the most practical endeavors for implementation were chosen in this manuscript.

4. Facilitating Legal Language in Apps Projects and Initiatives

Several initiatives and projects have addressed the complexity of the legal language in the digital environment, particularly in software apps. This paper highlights two of them. The first concerns privacy icons aimed at the average user, and the second is a legal and technical guideline which targets developers and programmers of apps.

4.1. Privacy Icon Projects

When users want to use an app on a smartphone, they must often first indicate their consent to the terms and conditions and the privacy policy of the apps (Bayern, 2015). The terms and conditions and privacy policy are considered a standard contract between the user and the developer or owner of the app, so the user is obligated to implement the contract and take responsibility by providing consent (Gunawan, 2020). In particular, the privacy policy can be defined as ‘a legal document that offers clarity around a website’s data collection and handling practices, thereby supporting a framework for privacy based on principles of notice and choice’ (Draper & Turow, 2019). The privacy policy is a contract between the service provider and the user or consumer that contains the framework and provisions for dealing with users’ data and information.

The privacy policy has many problems and dilemmas that call for study to address the issues and protect the user and the consumer. One study has shown that users do not read or review the terms and conditions or the privacy policies of smartphone apps. There are many reasons for this, including that they are written in legal language that is too complex for the average user, and they contain ambiguous terms and expressions (Elshout, Elsen, Leenheer, Loos & Luzak, 2026) such as measurement partners (*Instagram, 2021*). Second, privacy policies are written in a tiny font that is hard to read (Conway, 1996). Third, the length of the documents and the huge numbers of words lead users to agree to the privacy policy without reading or reviewing it (Gunawan, 2020). These issues are related to the user's reading and understanding of the privacy policy. Therefore, privacy policies should be reformed and clarified for the ordinary user.

One of the most essential solutions to privacy policies issues is converting legal documents into simpler forms and texts. One idea was to express privacy information in icons, signs or symbols. Privacy codes can be defined as symbols and images that carry specific information or meanings (Holtz, Nocun & Hansen, 2010). Privacy codes help users understand how their data are handled in a simple and concise manner. They also standardise the meanings and connotations of privacy (McClary & Stamm, 2021).

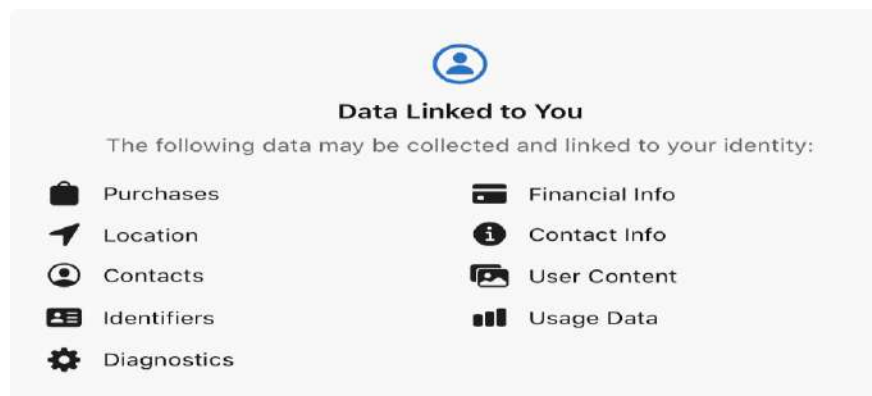


Figure 1: *The Privacy Policy for WhatsApp Messenger in apple app store*

(Source: Addition: App Store Preview, 2022)

Recently, Apple spearheaded the idea of privacy icons in the App Store. Apple requires developers to present the privacy policy in the form of pre-defined icons with specific meanings and to provide them on the first page of each app in the App Store. For example, the heart icon indicates that the app collects data related to health & fitness (Apple Inc, 2021). Therefore, if a

user wants to download any app, they see a summary of the privacy policy disclosed by the app's developer or owner in the form of icons before deciding to download the app.

On the other hand, there are some problems with the privacy icon model in the Apple App Store. First, the idea of privacy icons is based on the privacy policy field, away from terms and conditions or terms of use. Second, privacy icons may cause confusion for users because the 14 privacy icons refer to 32 different meanings related to privacy. Thus, some icons have multiple privacy meanings. Third, the use of privacy icons in a certain style and arrangement is only in the Apple Store, with not much expectation that other platforms will use the idea in the foreseeable future (Al Rezan & Ershadul Karim, 2021). These issues must be revised and reformed if the privacy icon model is to achieve a higher result and a wider benefit for users.

4.2. Legal and Technical Guideline Projects

Some legislation promotes consumer or user rights in the digital environment, such as the GDPR and the CCPA. These are concerned with regulating consumer and user privacy and protecting their data and information. However, some studies have shown that many developers fail to comply with these measures when they program and design their software and apps. Furthermore, they usually react negatively to privacy requirements. In fact, developers expect to receive support and assistance in programming the app in accordance with data protection legislation, as they have many questions about the procedures and meaning of privacy legislation and the required procedures (Li, Louie, Dabbish, & Hong, 2020). Therefore, privacy legislation must be simplified to achieve the developer's benefit and understanding of privacy legislation, so the best privacy practices are in place to protect consumers and users and enhance their rights to their data.

Some proposal projects aimed to simplify the language of laws and legislation for developers. One of them was the privacy and security design guideline or catalogue for app developers (Hatamian, 2020). The idea for this guide stems from the fact that privacy legislation is not easy for developers to understand and comprehend, and this creates the problem that apps are not compatible with privacy legislation. This leaves a large gap between the two aspects of legal principles and technical implementation. Therefore, developers' awareness of privacy regulations and procedures can be enhanced by offering a Technical Guideline Catalogue, which provides privacy guidelines for smartphone app developers and facilitates privacy legislation. It takes into account the essential procedures that must be applied before, during and after app

programming. It extracts the principles of privacy and provides the technical mechanism to conform to each privacy principle. For example, the section called ‘Third-Parties and Third-Countries Sharing’ suggests the following procedure: ‘End-to-end channels such as TLS must be enforced when sending sensitive information over the internet’ (Hatamian, 2020).

2-5-4	The cybersecurity requirements for network security management must be reviewed periodically.
2-6	Mobile Devices Security
Objective	To ensure the protection of mobile devices (including laptops, smartphones, tablets) from cyber risks and to ensure the secure handling of the organization's information (including sensitive information) while utilizing Bring Your Own Device (BYOD) policy.
Controls	
2-6-1	Cybersecurity requirements for mobile devices security and BYOD must be defined, documented and approved.
2-6-2	The cybersecurity requirements for mobile devices security and BYOD must be implemented.
2-6-3	<p>The cybersecurity requirements for mobile devices security and BYOD must include at least the following:</p> <p>2-6-3-1 Separation and encryption of organization's data and information stored on mobile devices and BYODs.</p> <p>2-6-3-2 Controlled and restricted use based on job requirements.</p> <p>2-6-3-3 Secure wiping of organization's data and information stored on mobile devices and BYOD in cases of device loss, theft or after termination/separation from the organization.</p> <p>2-6-3-4 Security awareness for mobile devices users.</p>

Figure 2: Networks Security Management in Essential Cybersecurity Controls
(Source: Addition: National Cybersecurity Authority, 2018)

Similar to the idea of the research guideline, the National Cybersecurity Authority in Saudi Arabia launched Essential Cybersecurity Controls as a practical guideline for developers. There are five primary areas such as Cybersecurity Defence, and subfields such as Data and Information Protection contain the following procedural order: The requirements of cyber security must apply a minimum of ‘Classification and Labelling Mechanisms’ (National Cybersecurity Authority, 2018). These initiatives facilitate regulatory and legislative requirements into an easy process for developers.

This facility for privacy legislation is directed at programmers and technicians and not ordinary users because it contains technical and programming language that may not be understood or needed by the average user or consumer. It also seems that these guidelines are not only a

simplification of privacy regulations and legislation, but also a procedural guideline and an implementation mechanism.

The researcher believes that both projects under this study are capable of success and continuity. However, there are multiple aspects of both projects that need to be reformed to achieve more significant success. These two projects are essential to facilitating and simplifying the legal language for non-specialists. The facilitation of legal documents and contracts, for example, traditional agreements, must not be stopped by other initiatives and projects.

5. Recommendations

It seems that the interest in privacy regulation simplifies it more than other legislation aspects; it may be helpful to extend these simplifications and facilities to different regulations and legal documents, such as consumer protection legislation and contracts that are unfair in their use policy or terms and conditions, this would achieve greater protection for users and consumers. This paper suggests that future research conduct quantitative studies on samples of users and developers and their use of these facilitating legal language models, initiatives or projects to develop these projects practically and accurately.

6. Conclusion

This paper has presented two projects: privacy icons and legal and technical guidelines. They are different approaches for facilitating beneficiaries' understanding of legal language. The first project targets ordinary users, and the second project applies to professional developers. Each project has aspects that should be developed and reformed to improve them as a means or model. However, people cannot rely on them alone – without the original legal documents – because they do not present all the legal provisions for developers or users. Instead, they provide a summary or simplification of the essential ideas and details of the original legal documents. Although this paper focused on legal language in smartphone apps, the recommendations can apply to apps on other platforms and in the digital environment and even traditional contracts.

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