



10-12 December, Mexico City

Plenary Meeting 38

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Mobile Privacy Regulation in LatAm



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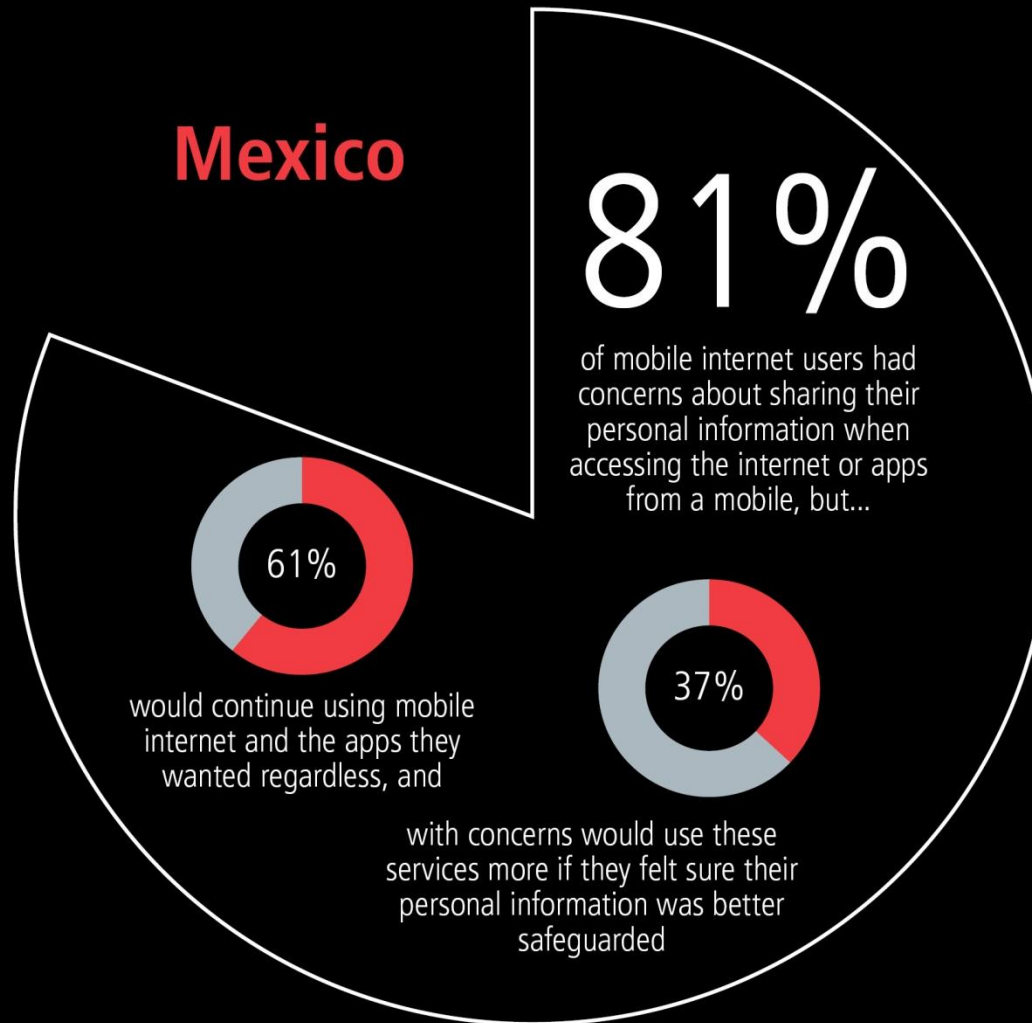
Natasha Jackson
Head of Content Policy, GSMA

- GSMA works with its members to address these challenges*

- A graphic titled "Mobile and Privacy" by GEMTA. It features a smartphone at the bottom center with various colorful dotted lines radiating from it to icons representing different mobile services: a speech bubble, location pin, camera, mail, Wi-Fi, and social media. The text "Privacy Design Guidelines for Mobile Application Development" is displayed above the phone.

- **Objective:** to understand mobile users' attitudes towards their privacy and how they compare with previous GSMA research (UK, Spain, Singapore)
- **Respondents:** 3,000 mobile users across Mexico and Brazil
- **Mexico sample:**
 - 76% smartphone users, 60% male, 44% contract
 - Bias towards younger age groups, but groups up to 64 years included
 - Good spread of education, income and regions
 - More ICT sophisticated compared with the population as a whole

Mobile internet users have privacy concerns

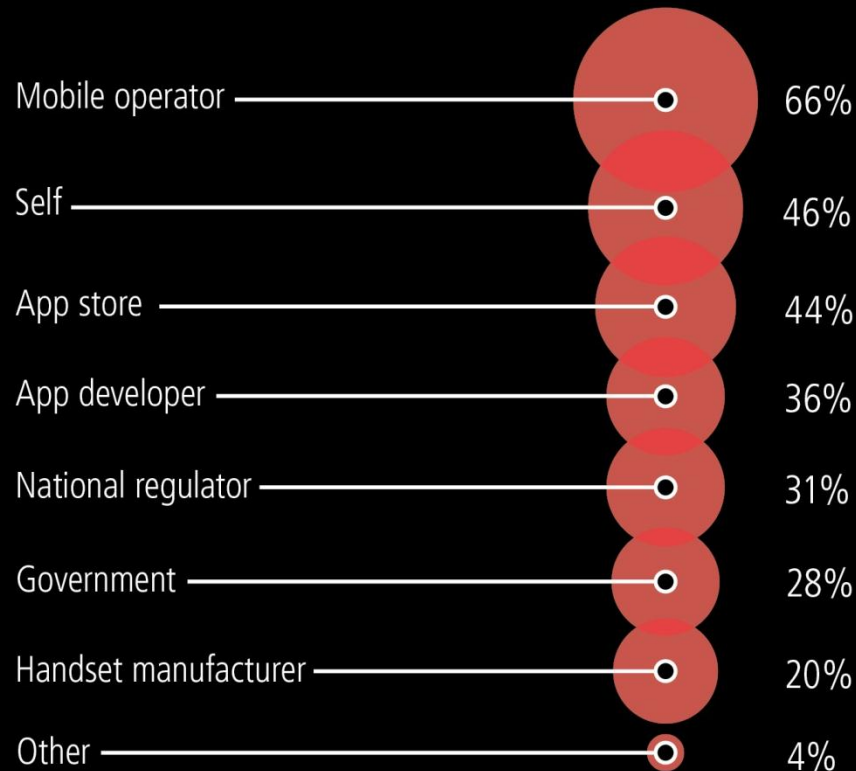


Base: All mobile internet users (Mexico - 1,261)

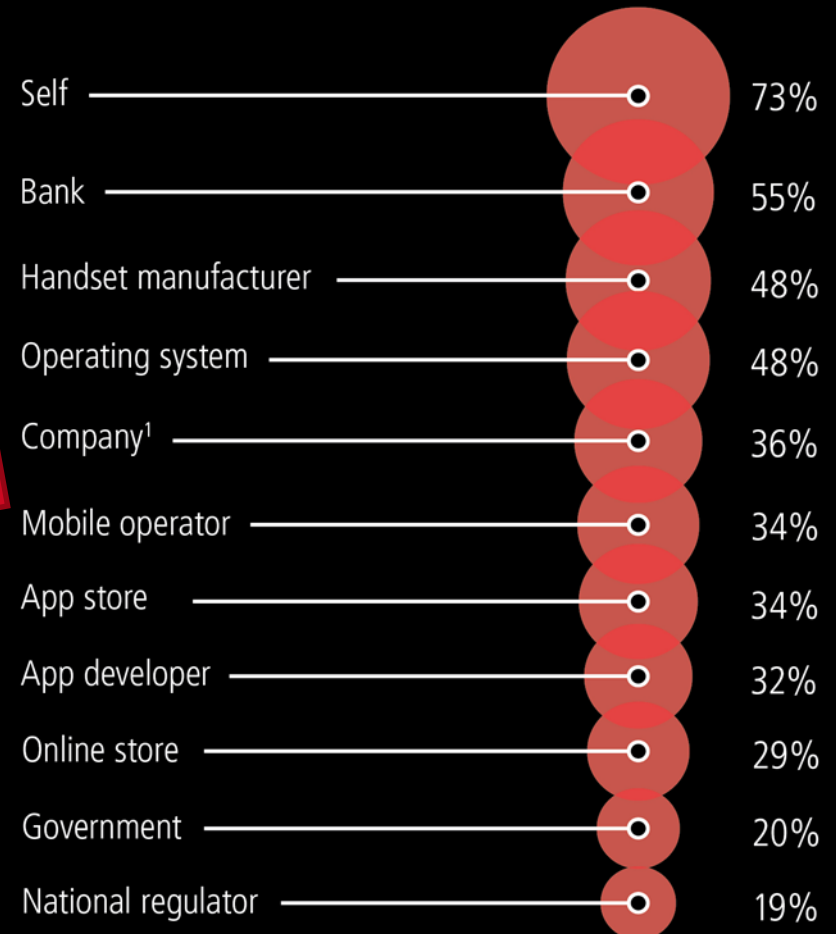
Users consider mobile operators accountable



Who people think should be held accountable when their privacy has been breached



Who people trust to safeguard their personal information



Base: All respondents (Mexico - 1,503) - Results are % of users rating top 3 scores on a scale from 1-10
1. Company refers to the company with whom the user has an existing account, such as Amazon or eBay

Most mobile users “agree” to privacy statements without reading them

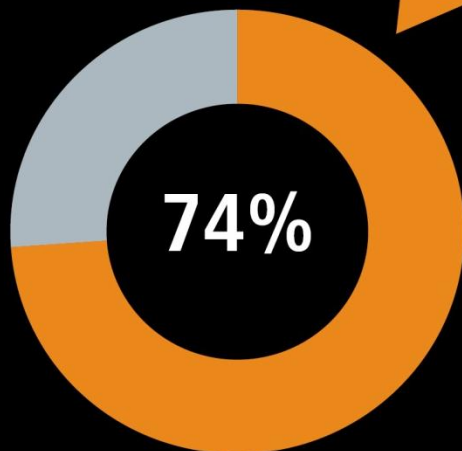


Brazil & Mexico

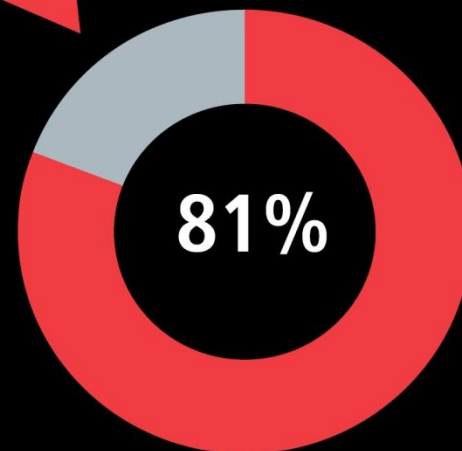
51%

I agree

would regularly “agree” to a privacy statement on their mobile without reading it



of those who “agree” privacy statements without reading... said it is because they are “too long”



Almost all mobile users want apps to ask them before collecting their personal data



Brazil



89%

thought it was important
to choose whether
applications can collect
personal information
without their consent

Mexico

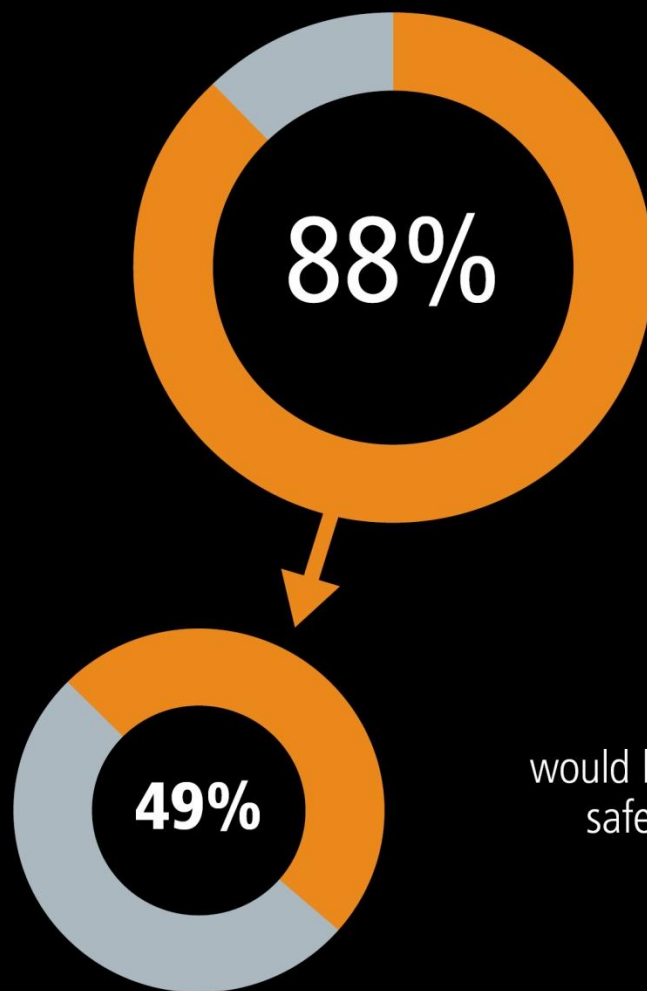


85%

Mobile app users may limit their use unless they feel more protected



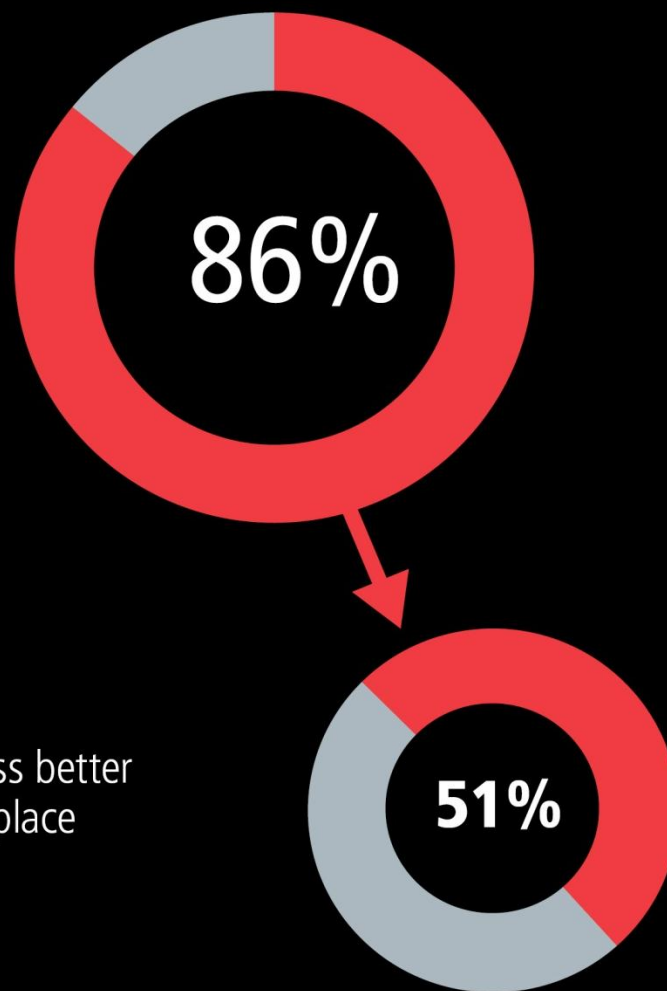
Brazil



of all mobile app users had concerns that apps might collect personal information without their consent

would limit their use unless better safeguards are put in place

Mexico



Seven in ten mobile users are concerned about sharing the “exact location of their mobile”



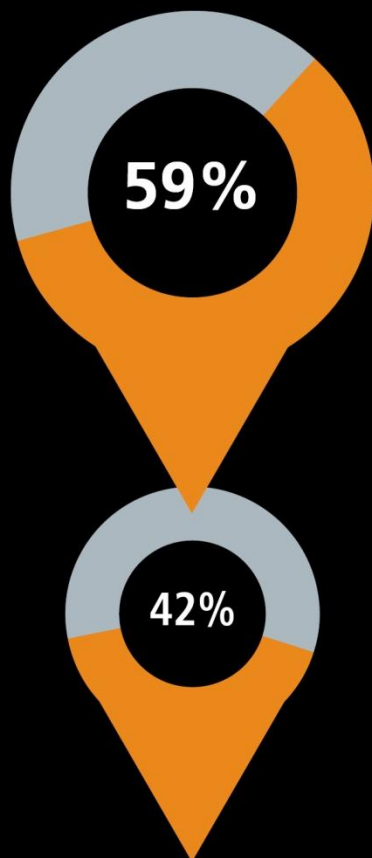
Mexico



Over half of mobile users have concerns about receiving ads based on their precise location



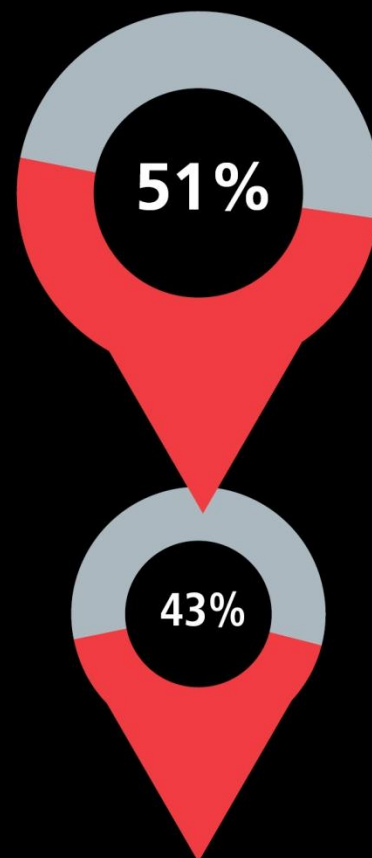
Brazil



of all mobile users had concerns about receiving advertising based on their precise location

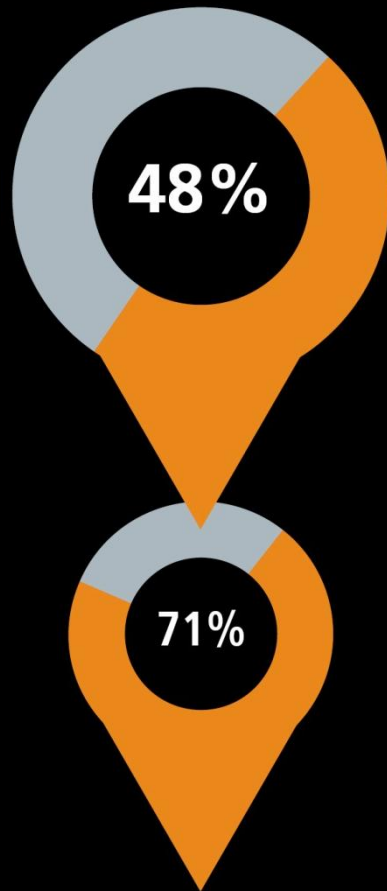
of those with concerns would limit their use unless better safeguards are put in place

Mexico



Most users of location-based promotions find them valuable...

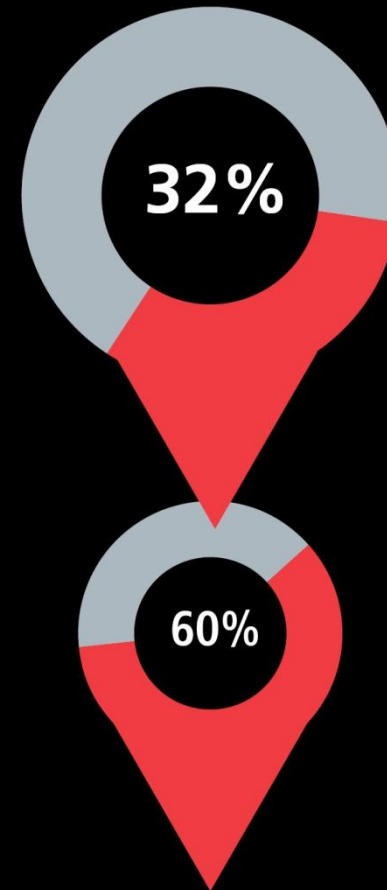
Brazil



of mobile internet users
were familiar with location
based promotions

of those familiar with location
based promotions, thought
these services were valuable

Mexico

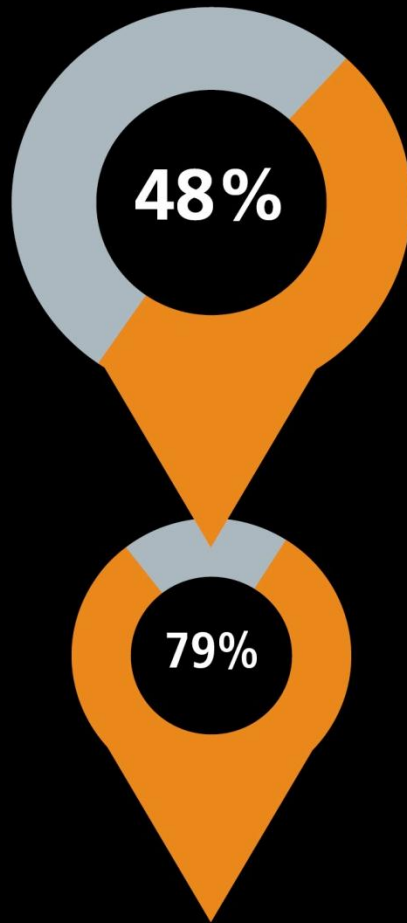


32%

60%

...but want to be able to turn them off or on

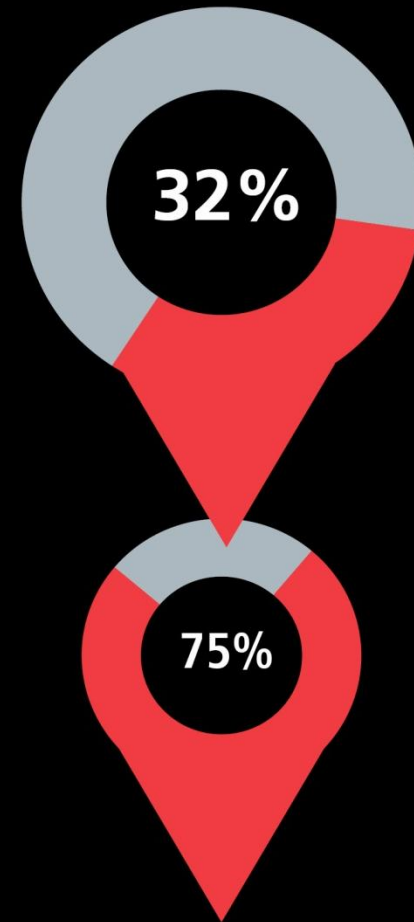
Brazil



of mobile internet users were familiar with location-based promotions

of those familiar with location-based promotions would like to be able to turn them on or off

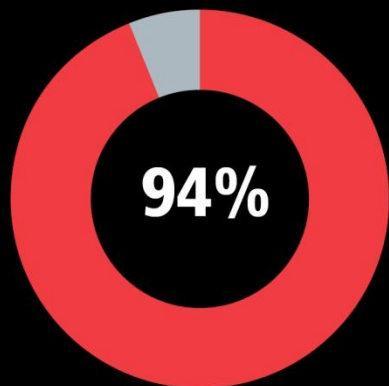
Mexico



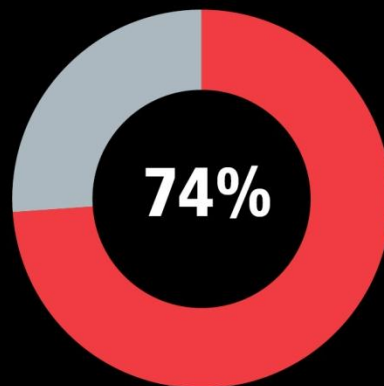
Mobile users also want to give their permission before sharing their location with a service or app



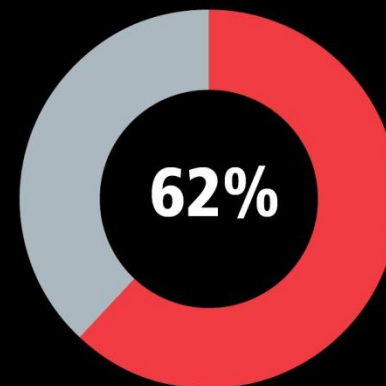
Mexico



want to be asked permission to share their location with a service or an app¹



of those using location-based services (LBS) regularly are concerned at 3rd parties having access to their location without permission²



of users thought that a consistent set of rules should apply to any company that had access to their location³

1 Base: All Audience A users who have ever used LBS (n=544) 2 Base: All Audience A users who use LBS regularly (n= 348) 3 Base: All Audience A users (n=753)



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Key issues, challenges and international developments around mobile privacy

Pat Walshe, Director of Privacy GSMA

Key challenges in ‘mobile’

- **Ecosystem** - global, interconnected but fragmented
 - inconsistent approaches to privacy / inconsistent user privacy experiences
- **Regulation** - patchwork of 89 geographically bound laws
 - applies unequally according to technology and infrastructure
 - inconsistent rules, business barriers, restrictions and burdens
- **Users** – privacy interests
 - Want transparency, choice and control
 - transcend borders and geographically bound laws
 - BUT complexity of comprehension & understanding on mobile makes it difficult

User ecosystem – key challenges



International regulatory developments

■ European Union

- New 'regulation' proposed
 - Applies to companies outside the EU
 - Tougher obligations on transparency and choice
 - Fines
 - Supports self-regulation and codes of conduct
- Mobile app privacy guidelines

■ USA

- Dept. of Commerce Code of Conduct on mobile app privacy
- California Attorney General mobile app privacy agreement with key players and developing Mobile Privacy Recommended Practices

■ Japan, Hong Kong – publishing guidelines on mobile app privacy

■ Canada – published mobile app privacy guidance

■ China – introducing special measures to protect device privacy and security of user/device data

Latin America – Data Protection

- Data protection laws adopted in 8 Latin America countries
- Growing recognition that strong data protection laws are important to commercial transactions within and across borders – to their economies
- Laws are emerging and in the process of being drafted or enacted (e.g. Brazil, Columbia)
- Developments largely follow EU model
- Lack of regional harmonisation creates patchwork of laws and rules
 - Adds to legal uncertainty, compliance burdens and restrictions (especially for pan-regional operators)
 - Creates inconsistency in interpretation and application and user privacy experiences
- Founding of the Ibero American Data Protection Network (RIPD)

Latin America – Data Protection

Country	Law	Date	EU	Intr'l
Argentina	Law for the Protection of Personal Data	2000	A	
Brazil	Protection of Personal Data Bill	Draft submitted		
Chile	Privacy Law	1999		APEC
Columbia	Data Protection Act	Enacted 19 Oct 2012		
Costa Rica	Law on Protection of the Person Concerning Personal Data Treatment	2011		
Mexico	Federal Law on the Protection of Personal Data Held by Private Parties	2010	Seeking adequacy	APEC, OECD
Paraguay	Law 1682 on Information of a Private Nature	2002		
Peru	Law on Protection of Personal Data	2011		APEC
Uruguay	Law on Protection of Personal Data	2008	A	

Latin America– Top issues for consideration

Area	Future priority
<p>Technological Neutrality</p> <p>MNOs often subject to additional more restrictive rules than other sectors</p>	<ul style="list-style-type: none"> • Focus on the desired privacy outcomes for users • Treat functionally equivalent data and services in equivalent ways (e.g. traffic and location data) • Technology neutral and future proof approach
<p>Notice and Consent</p>	<ul style="list-style-type: none"> • Support alternative models to consent and broader big data uses that meet public policy objectives/provides social goods
<p>International Transfers</p>	<ul style="list-style-type: none"> • Create a framework that facilitates the flow of data without unwarranted restriction
<p>Self Regulation</p>	<ul style="list-style-type: none"> • Support Privacy by Design approach • Recognition and support for accountability in the information chain
<p>Breach Notification</p>	<ul style="list-style-type: none"> • Need for clarity and consistency

Apps? Designing for users in Mexico



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¿QUIÉN?

Apptualizate IPN, es un evento organizado por Aventura Capital Partners, el Instituto Politécnico Nacional, la Delegación Gustavo A. Madero y el Instituto de Ciencia y Tecnología

¿CÓMO?

200 diseñadores y programadores, 7-8 empresas buscando soluciones para dispositivos móviles, speakers destacados, 48 horas trabajando y conviviendo, una propuesta con el cliente.

¿ CUÁNDO Y DÓNDE?

Del 30 de noviembre al 2 de diciembre en el Centro de la Juventud, Arte y Cultura Futurama en Otavalo #7 esquina con Av. Instituto Politécnico Nacional, Colonia Lindavista.

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Mobile Privacy Regulation in LatAM: A panel discussion on Geo-location & other matters

Panel members

Moderator: Pat Walshe (Director of Privacy, GSMA)

Sigrid Arzt, Commissioner, Federal Institute for Access to Information and Data Protection, Mexico (IFAI)

Alberto Razo, Assistant Director, Regulatory Litigation Nextel Mexico

Cristian Sepulveda Tormo, Chief Legal Officer & Counsel , ENTEL Chile

Alejandro Padilla, Deputy Regulatory Director, America Movil, Mexico

What is location?

Technology: Reshaping concepts and values

- Where I am now + activity
- Where I am not
- Where I am heading
- Where I have been
- Which route I travelled by
- Which way I am facing/elevation
- People, Things I am connected to
- Linked to health, financial transactions



Sigrid Arzt, Commissioner IFAI

- The Access to Information Law (2002), concerning personal data, empowers IFAI as the authority guarantor in the public sector (Executive Branch).
- The Data Protection Law (2010) and its Secondary Regulations (2011), expanded the powers of IFAI as authority guarantor for protection of personal data in the private sector.
- RENAUT (Registry of Mobile Phone Users) (2009), first record in telecommunications regulation linking mobile phone number with CURP (Unique Code of Population), in the field of security.
- Second generation legal reforms location (2012), RENAUT disappears and powers of authorities are strengthened to allow companies to request real-time location.
- The CNDH (National Commission for Human Rights) filed a claim of unconstitutionality to the Supreme Court (2012) arguing that the reference reforms violate the right to privacy.

Alberto Razo, Assistant Director

Regulatory Litigation Nextel Mexico



LA LOCALIZACIÓN GEOGRÁFICA EN TIEMPO REAL (GEOLOCALIZACIÓN).

LA LOCALIZACIÓN GEOGRÁFICA EN TIEMPO REAL.

Ésta debe entenderse como la ubicación aproximada en el momento en que se procesa una búsqueda de un equipo terminal móvil asociado a una línea telefónica determinada. (Art. 3, fracción XVII de la LFT);

El 17/04/12 se publicó en el DOF, la reforma a diversas disposiciones que obliga a los concesionarios del servicio de telecomunicaciones a colaborar con las autoridades para la localización geográfica, en tiempo real, de los equipos de comunicación móvil que se encuentren relacionados con investigaciones en materia de delincuencia organizada, delitos contra la salud, secuestro, extorsión o amenazas.

Nextel consciente del tema de inseguridad que prevalece en la sociedad mexicana, ha colaborado con las autoridades en la provisión de información que arrojan nuestros sistemas, incluso previo a la reforma legislativa.

LA LOCALIZACIÓN GEOGRÁFICA EN TIEMPO REAL.

Aspectos positivos:

- ✓ La buena coordinación que hay entre Nextel con las autoridades para proveerles la información que arroja nuestro sistema actualmente;
- ✓ La aportación de la tecnología de las telecomunicaciones en la coadyuvancia con las autoridades para combatir delitos;
- ✓ La inhibición en la comisión de delitos graves debido a la implementación de medidas como la localización geográfica en tiempo real; y
- ✓ La incentivación para que los distribuidores de equipo saquen al mercado teléfonos con dispositivos GPS, en beneficio de los consumidores.

Aspectos negativos:

- ✓ Que la tecnología tiene limitantes, no es factible obtener la localización geográfica si el equipo está apagado o si se encuentra fuera de cobertura;
- ✓ Que cualquier autoridad, sin tener facultad solicite al concesionario, información sobre la localización geográfica;
- ✓ Que las solicitudes de localización geográfica se refiera a fechas anteriores a la solicitud;

Aspectos negativos:

- ✓ Que las autoridades pidan que la localización geográfica comprenda períodos de varios meses y que la solicitud incluya el monitoreo de muchos números al mismo tiempo;
- ✓ Que al momento de recibir el requerimiento, el policía federal nos presione e intimide para que se le provea la información *in situ*; y
- ✓ Que es un riesgo la revelación de la identidad de las personas encargadas de proveer la información de la localización a las autoridades.

Aspectos pendientes:

- ✓ Que la obligación de los concesionarios de contar con sistemas, equipos y tecnologías que permitan la ubicación o localización geográfica, en tiempo real, entrará en vigor el 18/06/13 (Arts. Tercero y Cuarto Transitorios de LFT);
- ✓ Que las autoridades deberán emitir un Acuerdo Delegatorio de Facultades, para tener certidumbre de quienes podrán requerirnos este tipo de información;
- ✓ Que las autoridades sean explícitas en sus requerimientos; y
- ✓ Que haya una coordinación entre las autoridades competentes con los concesionarios para la debida implementación de la colaboración de proveer este tipo de información.

PRIVACIDAD DE DATOS

¿Cuál es la clave de protección de datos / privacidad reto como un operador de telefonía móvil en México? Puede haber muchos problemas - pero ¿cuál es la más urgente y por qué?

R = Nextel para cumplir con la Ley Federal de Protección de Datos Personales en Posesión de Particulares, tuvo que realizar diversas acciones. El reto más importante es la protección de la base de datos de los usuarios.

Si pudiera pedir al regulador una cosa en relación con la protección de datos y privacidad - ¿cuál sería?

R = Si el IFAI se creó para regular y vigilar el acceso a la información del Gobierno Federal, ¿Por qué se le asignó además la tarea de proteger los datos personales de los ciudadanos? Son dos actividades que resultan antagónicas.

Cristian Sepulveda Tormo

ENTEL Chile

Alejandro Padilla

Legal, America Movil, Mexico

Thank you

For more information contact:

pwalshe@gsm.org

www.gsma.com/mobileprivacy