

# Veto the privacy bill

By OMRI BEN-SHAHAR

It is no secret that websites and mobile apps collect abundant information about users, far more than necessary to provide the services people expect. Mostly, they use the big data harmlessly to tailor ads and personalized services. Sometimes, however, the data are shared in disturbing ways. Medical apps might sell information to merchants; sensitive data might be sold to creditors and employers; and children's game apps collect GPS locations even if that's completely unnecessary for functionality.

Concerned with the potential loss of data privacy, lawmakers are searching for solutions to protect consumers. In the hope that greater transparency would be the solution, the Illinois General Assembly recently passed Senate Bill 1833, which requires websites and apps to post their privacy policies in a conspicuous manner. This means that users would be able to see a clear link to the policy when they enter a site or shop for an app.

The bill is now sitting on Gov. Bruce Rauner's desk. It should be vetoed. Simply put: Disclosures don't work. Mandated disclosure is a fantasy solution that imposes costs without any shred of benefit.

The bill is full of good intentions. If companies have to tell us what information they collect, we would be able to avoid those with abusive privacy practices. We'd like to think that "sunshine is the best of disinfectants," and that requiring disclosure of risks help

people avoid such risks.

Because it is so plausible, mandated disclosure has become the most common form of regulation. But it is also the least successful. Disclosures are not read by people and are rarely if ever used in any profitable way to make better decisions. They are an empty ritual, and their main effect is to help firms avoid liability. Having disclosed their actions, they are not going to be liable for fraud or deception!

Do we really think that long texts of fine print could help people? When was the last time you read a bank disclosure statement? Or the fine print before clicking, "I Agree"? Or your HIPAA privacy rights notice at the health clinic? Or the terms of a car rental agreement? These are all disclosure moments brought to you courtesy of well-meaning lawmakers, to solve numerous problems — some of which are far graver than data privacy protection.

In a recent book titled "More Than You Wanted To Know: The Failure of Mandated Disclosure," we explain why disclosures fail and cannot be fixed. Take the privacy disclosures as an example. Businesses have to tell people all the ways in which information is collected, used and shared. But how could any consumer read and digest so much information? One study showed that it would take an average American the time equivalent to 76 workdays every year to read all the privacy policies in websites she visits, with an annual cost of wasted time to society of roughly \$780 billion! Moreover, privacy

notices are only the tip of the iceberg. Each website also has terms and conditions, each product has a warranty statement, and each credit card statement has new terms that need to be read. Literally, there is not enough time to read all legally mandated disclosures that arrive daily!

To understand the absurdity of disclosures like the ones mandated under the privacy bill, I printed one such website policy (the iTunes terms and conditions) into one long scroll and attached it to the roof of the University of Chicago's law library.

Are you really going to read this, even if the link to it appeared prominently on every website?

It is time to say enough to lawmakers' senseless disclosure mandates. These mandates impose costs on firms that are not balanced by any measurable benefits to consumers.

If lawmakers truly thought that privacy breach is an imminent risk to many consumers, maybe they should huddle and figure out some real solutions. They should begin by asking how big the data privacy problem is — is it sweeping cyberspace, or is it only anecdotal? They should then tailor solutions that reduce privacy abuse without endangering the two most treasured features of the digital era: innovation by firms and low consumer cost.

*University of Chicago Law School professor Omri Ben-Shahar is a co-author of "More Than You Wanted To Know: The Failure of Mandated Disclosure."*



LLOYD DEGRANE/OMRI BEN-SHAHAR PHOTO

The author suspended a printed version of iTunes terms and conditions from the roof of the U. of C. law library.