

## **The Regulation Dilemma: Innovation vs. Protection**

### **Must They be in Conflict?**

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2018 was a pivotal year for Privacy and Data Protection both in regulation – the EU General Data Protection Regulation came into force and proliferated around the world – and in public discourse - elevated in media and among legislators worldwide, following discoveries of personal data manipulation used to try and influence democratic processes.

Main privacy protection principals are using data under legal processing bases – specific legislation, legitimate interest, serving a public interest or consent granted by the individual. Also, there is a requirement for transparency to the individual, specifying what data is collected, for what purposes and who are the parties the data will be shared with.

There is a purpose limitation so that only purposes allowed for in legislation or declared to the individual before receiving consent are allowed, and responsibility for securing the data in a state-of-the-art level.

The GDPR has introduced additional new rights of individuals in their personal data collected by others, such as the right to Data Portability and the right to an explanation when decisions are made automatically.

These principals are already challenged vis-a-vi innovative human endeavors such as Smart Digital Cities, Big Data Analytics in health care, Artificial Intelligence and Machine Learning and more.

Human enhancement technologies are a new frontier that adds to these challenges and raises the bar.

In my presentation I wish to raise the question of regulation in this context, and in the words of Adam D. Tahierer (Thierer, 2015): should it be “Permissionless Innovation” or “the Precautionary Principal”?

Are the existing general regulations for Data Protection sufficient to protect people from Brain Hacking, and the risks presented by a direct Brain Computer Interface (BCI) that allows for personal data collection that is without consent, without the knowledge of the individual, and may be used for a range of harms from discrimination and exclusion, through financial identity theft to physical and psychological harm (Haselager, 2016). Do we need to formulate specific regulations? Should it be now or when more clarity is achieved in the science of it? Do we take into account in this decision approaches taken in other areas of the globe?