

## Data Protection Proposals: 'Personal data' and 'Consent'

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1. Personal Data: + "single out"  
Scope of the Regulation
2. Consent  
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## 1. Personal Data

"information relating to an  
identified natural person  
or a natural person who can be  
identified, directly or indirectly,  
**or can be singled out, (...)**"

art 4(1) & 4(2) <sup>3</sup>



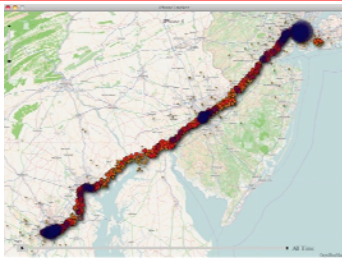
Nameless profile -  
"single out" a person

Pubmatic.com



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Nameless profile -  
"single out" a person



Warden & Allan 2011, iPhone tracker



## Recital 24: delete last sentence

Individuals may be associated with online identifiers  
such as cookies.

This may leave traces which may be used to create  
profiles of the individuals and identify them.

~~"It follows that identification numbers, location data,  
online identifiers or other specific factors as such need not  
necessarily be considered as personal data in all  
circumstances."~~



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## Consent: keep requirements

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- freely given
- specific
- informed
- indication of one's wishes

(art. 4(8) & 7 proposed Regulation)

## ‘Consent’

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"Your continued use of [the service] following changes to our terms constitutes your acceptance of our amended terms."



## Consent: keep requirements

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Silence or inactivity is not consent  
(recital 26)

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## Thank you!

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*[www.twitter.com/FBorgesius](http://www.twitter.com/FBorgesius)*

*[www.ivir.nl/staff/borgesius.html](http://www.ivir.nl/staff/borgesius.html)*