



Irish Pharmaceutical
Healthcare Association

DPC opinion on the use of Legitimate Interests and IPHA Code Disclosure

August 2022

Verbatim feedback from the Assistant Commissioner of Data Protection Commission

The analysis that you submitted in relation to the processing of personal data in the context of transparency and transfers of value represents a comprehensive assessment of the lawfulness of processing and the justification for the identification of the legal basis of the legitimate interests of the IPHA. The balancing test, central to the assessment of legitimate interests, appears to have been conducted in a fair manner, considering the competing interests in detail. Additionally, I note that the principle of data minimisation has been implemented in the consideration of each the data items undergoing processing.

In terms of the safeguards to further implement the principles of data minimisation and to protect the fundamental rights of data subjects, the implementation of protocols to protect the data from search engine indexing is particularly welcomed. This should ideally mean that the information will only be available to persons who seek to access it for legitimate purposes and it will be protected from web-scraping or other harmful practices.

In terms of the IPHA's responsibilities regarding the rights of data subjects, the commitment to transparency is noted. The only comment I would make in this respect is that, as processing is based on Article 6(1)(f) GDPR, legitimate interests, the IPHA should have a procedure in place to facilitate the exercise of the right to object to processing under Article 21 GDPR. The right to object is not absolute, but requires a specific consideration of the grounds justifying the processing in the context of the particular situation of the data subject. Where compelling legitimate grounds are identified, which override the interests, rights and freedoms of the data subject, processing may continue to take place, and this should be clearly explained to the data subject.

To conclude, based on the information provided, the DPC has not identified anything giving rise to significant concern in relation to the processing of personal data in this context. Please feel free to contact me directly if you would like to discuss this further or any additional queries arise.

IPHA Interpretation

In short, the DPC is advising that it doesn't have any concerns with regard to the use of legitimate interests (LI) as a legal basis for Disclosure.

Importantly, the DPC has highlighted that there should be a procedure in place to facilitate the exercise of the right to object to processing. In particular, it highlighted the fact that *the right to object is not absolute but requires a specific consideration of the grounds justifying the processing in the context of the particular situation of the data subject*. This is very important - it suggests that if an individual objects to the processing companies cannot simply accept that objection. Companies must make a specific consideration as outlined in italics above. Failure to do so would be contrary to the opinion of the DPC, would be breach of the Code and would be likely to be a breach of the GDPR.