



Libraries and the Right to be Forgotten

A Conflict in the Making?

Eli Edwards (misseli@mac.com)

The right to be forgotten (RTBF), an concept in European privacy law, is based on the notion that personal information that is irrelevant, outdated, or inaccurate should not be readily accessible to the public. The right was codified in the European Union's 1995 Data Protection Directive (European Commission 2012).

In 2014, the Court of Justice for the European Union (CJEU) was petitioned on the question of whether the RTBF applied to digital information held by search engines. To the surprise of many, the Court ruled that search engines, even those whose data was held largely outside of Europe, were subject to the Directive. To comply, search engines that began delisting certain search results when requested by European citizens; this applies across all domains, but only to viewers within Europe (Carter 2016). This application of RTBF so far occurs only at the search-engine level—the primary content is not taken offline (“Weak Spots” 2016).

Google's process is a case-by-case staff determination of each request (“Google Transparency Report: Frequently Asked Questions” n.d.). As of mid-January 2017, Google has received 671,463 requests from European citizens to remove links, and it has evaluated for removal 1,852,776 URLs; 43.2 percent of the URLs processed were removed from search results (“Google Transparency Report: European Privacy Requests for Search Removals” n.d.). A 2016 study found that removal requests clustered around criminal

and/or sexual issues (Xue et al., 2016). The study also explained a technical flaw that would allow third parties to find delisted articles and identify removal requesters. Eighty professors in Europe and the United States signed a letter requesting that Google provide more details in its transparency report of delisting requests (Goodman 2015).

In 2016, the European Parliament passed legislation replacing the 1995 Data Protection Directive, effective mid-2018. The new directive includes a right of erasure of



personal data if it's "no longer necessary in relation to the purposes for which [it was] collected." There are explicit exceptions for freedom of expression and archiving for scientific or historical purposes (Regulation (EU) 2016/679 2016).

Supporters have praised the decision and implementation as reasonable restraints against the reputation harm suffered from the the persistency of online information (Rotenberg 2014). Critics worry RTBF will create "memory holes" in the historical record that impede access to knowledge and accountability of public figures (Palmer 2016). Some archives and researchers have pointed out that they already have protocols for the removal of certain information, if petitioned, and the Google case does not change those protocols (British Library 2014; Jones 2012).

Library organizations have shown concern over RTBF and long-term information access. Deborah

Caldwell-Stone, deputy director of the American Library Association's Office for Intellectual Freedom, has pointed out "the possibility of losing the ability to find information and preserve the historical record" (Lynch 2016). In 2016, the International Federation of Library Associations and Institutions (IFLA) released a statement focused on balancing freedom of expression and preserving information with protecting individual privacy (IFLA 2016).

American librarians have taken on the role of privacy advocates with alacrity, especially around privacy for accessing information, on and offline. Librarians also consider access and preservation of information to be an essential duty. We must, as IFLA recommends in its statement on RTBF, continue conversations between stakeholders to support our missions to provide access to information and encourage user privacy.

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