

Breakout Discussion Notes: Industry Innovation

Data & Civil Rights
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<http://www.datacivilrights.org/>

This document was produced based on notes taken during the Industry Innovation breakout session of the Data & Civil Rights conference. This document represents a general summary of the discussion that took place. Not all attendees were involved in every part of the conversation, nor does this document necessarily reflect the views and beliefs of individual attendees. For an overview of the breakout sessions, including a description of the questions participants were asked to consider, see: <http://www.datacivilrights.org/pubs/2014-1030/BreakoutOverview.pdf>

Overview

Participants, who were largely comprised of industry representatives, discussed how industry could address concerns around big data and civil rights. For many, the conference laid common ground, with participants finding that their colleagues from other industries and sectors are facing similar issues that are complex and challenging. Participants generally agreed that it is better to create a product or service that factors in civil rights from the beginning, rather than retrofit the product or service years later. They compared and contrasted the civil rights conversation with existing debates around privacy, highlighted the opportunities technology holds to address civil rights concerns, outlined strategies to ensure corporate responsibility at all levels of business, and discussed the need to increase collaboration and transparency.

Themes and Discussion Topics

Framing the Conversation: Big Data, Civil Rights, and Privacy

Participants tried to draw parallels between conversations on big data and civil rights and those on big data and privacy. Some felt it might be more difficult to translate civil rights principles into industry practice compared to integrating privacy features, while others suggested that the shared values of the civil rights and privacy communities could ameliorate the process.

Perhaps we should not distinguish between privacy and civil rights, but rather frame both conversations as aspects of data governance. Privacy concerns stem largely from the potential misuse of information (e.g., a health insurance company aggregating data about its customers from consumer profiles, with the potential that inaccurate or punitive inferences can be made from these), while civil rights concerns stem from actual misuse of information (e.g. a health insurance company using aggregated data to deny health insurance coverage to people). We face a catch-22 when encouraging companies to factor civil rights into their work. We haven't developed tools to determine what organizations are "good actors" in this space, so we can't reward good actors, and companies don't have a clear sense how to be good actors.

Highlighting Opportunities to Use Technology to Reduce Civil Rights Risks

Participants appreciated that the conference did not simply focus on technology's potential to cause harm, but also highlighted how technology can benefit people. It is just as much a civil rights concern to exclude people from the benefits of technology as it is to use technology in a way that violates people's rights.

Participants want to see a "race to the top" where companies actively work to create products and services that benefit people. They want more emphasis on aligning business models with values of inclusion so that companies are incentivized to become good actors rather than focusing solely on regulation to stop bad actors.

Building Corporate Responsibility at All Levels

Some participants underscored their desire to operate in a responsible manner, but to not let this obligation stifle innovation. Companies want to learn from mistakes that occurred in other industries. For example, the financial industry wants to explore use of alternative credit information to take risks, create new products, and bring more people into the credit marketplace. At the same time, the industry wants to ensure those products do not cause harm and wants to develop legitimate ways to market those products to people. Participants discussed ways to incorporate responsibility at the employee and sector level.

How can we increase employee awareness of big data and civil rights concerns?

Hiring and retaining talent is difficult, and companies that emphasize civil rights in their work can gain a competitive advantage. People want to learn, and companies should empower them. If you tell an engineer that a product could cause a privacy or civil rights problem, she won't say, "I don't care," she'll say, "How do I fix it?" It's important to involve people with technical expertise in conversations about social implications, but it's equally as important to make sure that technical people who enter technical job roles are also aware of civil rights issues. To do this, companies can:

- Sponsor fellowships or university programs that help computer scientists and engineers understand the social implications of their work and that help law students understand how technology works.
- Train people to look for red flags in product development, design, and testing and develop a process by which those red flags are addressed.
- Create a person or team in charge of privacy and data governance so that people internal and external to the company know they can talk to someone about these issues. Start-ups should include this role from the start. Other sectors should also include a similar person or team so that, for example, a company that wants to work with educational data can go to the privacy officer of a school or school system.

The breakout also focused on a series of questions and responses, summarized as follows:

Do we need industry standards for technology development and civil rights?

Many other industries have professional standards. Participants discussed whether technologists or start-ups need professional standards or a code of conduct, since they create

products that change the world. Large companies frequently acquire or contract with start-ups, and perhaps these companies should tell start-ups that want to work with it to adhere to certain standards. For example, the Student Privacy Pledge identifies principles for use of student data. Companies in the educational technology space can sign on to these principles, and if a signatory violates these principles, the FTC can get involved. If people begin to make decisions based on these principles, companies can be incentivized to comply with them. Can we extend this idea to other aspects of civil rights?

Participants also identified disparate impact analysis as a starting point for organizations to evaluate the civil rights implications of their work. The financial services industry is required to evaluate disparate impact under the Fair Housing Act, and perhaps other sectors could benefit from using a similar type of analysis to determine if their products or services operate unfairly.

How do we foster responsibility among start-ups, whose primary focus is survival?

Established companies, venture capitalists, and organizations that develop industry standards can inform start-ups about civil rights implications. For example, one large, mature company developed a process that integrated privacy considerations into its product development and design process. The company made this process public in an effort to help other companies do the same. Such established practices can serve as a baseline for start-ups.

Venture capitalists should also look for responsible practices among start-ups, since their money is at stake. They should view a start-up that doesn't address privacy or data governance as a higher investment risk. For example, a VC can avoid investing in a start-up unless one of its first 25 employees focuses on privacy and data use. Organizations that develop industry standards or principles should actively reach out to start-ups and inform them of the standards or principles.

How do we increase collaboration and transparency?

More information is needed about what products, services, or interventions help or hinder underserved populations. Researchers, practitioners, and industry representatives should collaborate on defining a problem, discovering the impact, and figuring out a business model that works. If we know what works, we can scale it to reach more people. One barrier to this is access to data, or informational asymmetries. For example, one organization conducted research on the positive and negative outcomes of using alternative information to provide financial services to underserved populations, but others could not replicate this because the major credit bureaus hold the data. Additionally, other sectors do not have visibility into the ways that companies test to see if their products cause harm. One suggestion is to create a multi-stakeholder organization that includes companies, NGOs, and researchers to jointly conduct testing and discuss thorny topics (e.g., How can companies best evaluate creditworthiness when using neighborhood data and highly individualized data can both cause problems? How can companies partner with academic researchers when companies want to keep data private and researchers want to make it public?)

Several participants emphasized that transparency is a corporate responsibility. Companies should have to prove why revealing information would harm the company, rather than simply asserting that their information is too valuable to disclose. Transparency doesn't mean a company has to reveal minute details of product development, but a company should be transparent about its processes, and what it learns.

Areas for Further Exploration

Participants identified several strategies to better consider the civil rights implications of their products and services. These included increasing awareness of civil rights issues among employees, developing industry standards, principles, or codes of conduct that provide a road map toward responsible behavior, ensuring that start-ups are informed and incentivized to adopt responsible practices, and collaborating with NGOs and researchers to share knowledge and address challenges. Participants acknowledged the challenges of addressing the civil rights concerns of big data, but they felt optimistic about harnessing technology to reduce civil rights harms as well as collaborating with others to tackle existing challenges.