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TECH

7,500 Online Shoppers Unknowingly Sold Their Souls

Published April 15, 2010 · Fox News



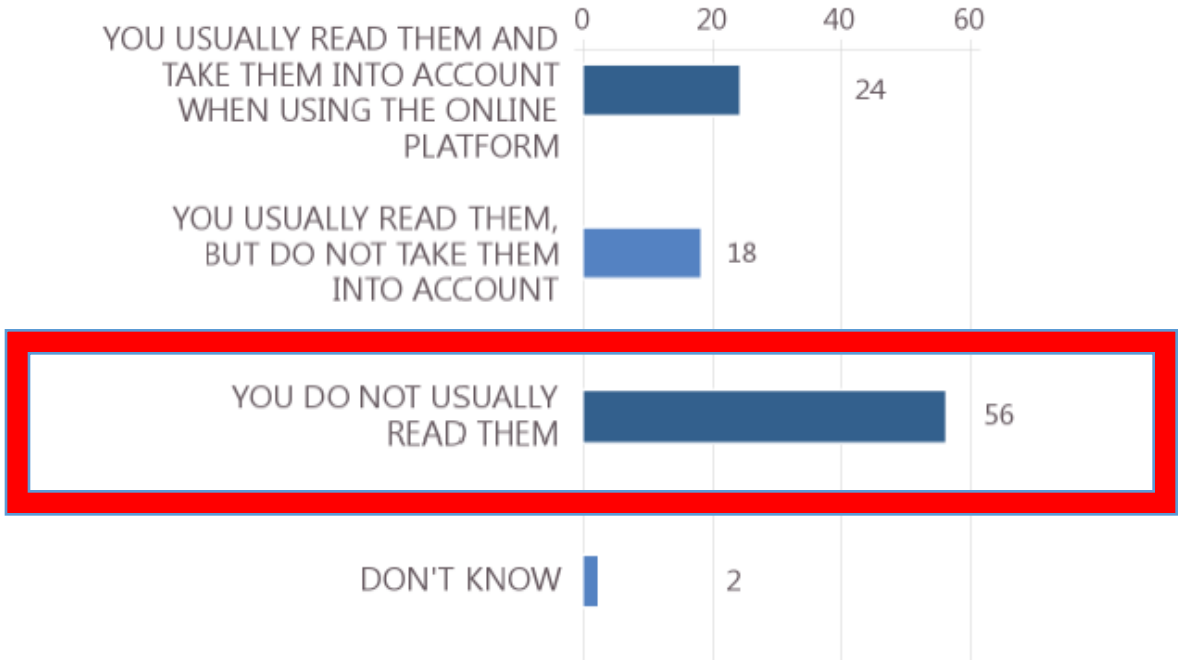
(Wikipedia)

By placing an order via this Web site on the first day of the fourth month of the year 2010 Anno Domini, you agree to grant Us a non transferable option to **claim, for now and for ever more, your immortal soul**. Should We wish to exercise this option, you agree to surrender your immortal soul, and any claim you may have on it, within 5 (five) working days of receiving written notification from gamestation.co.uk or one of its duly authorised minions [...]

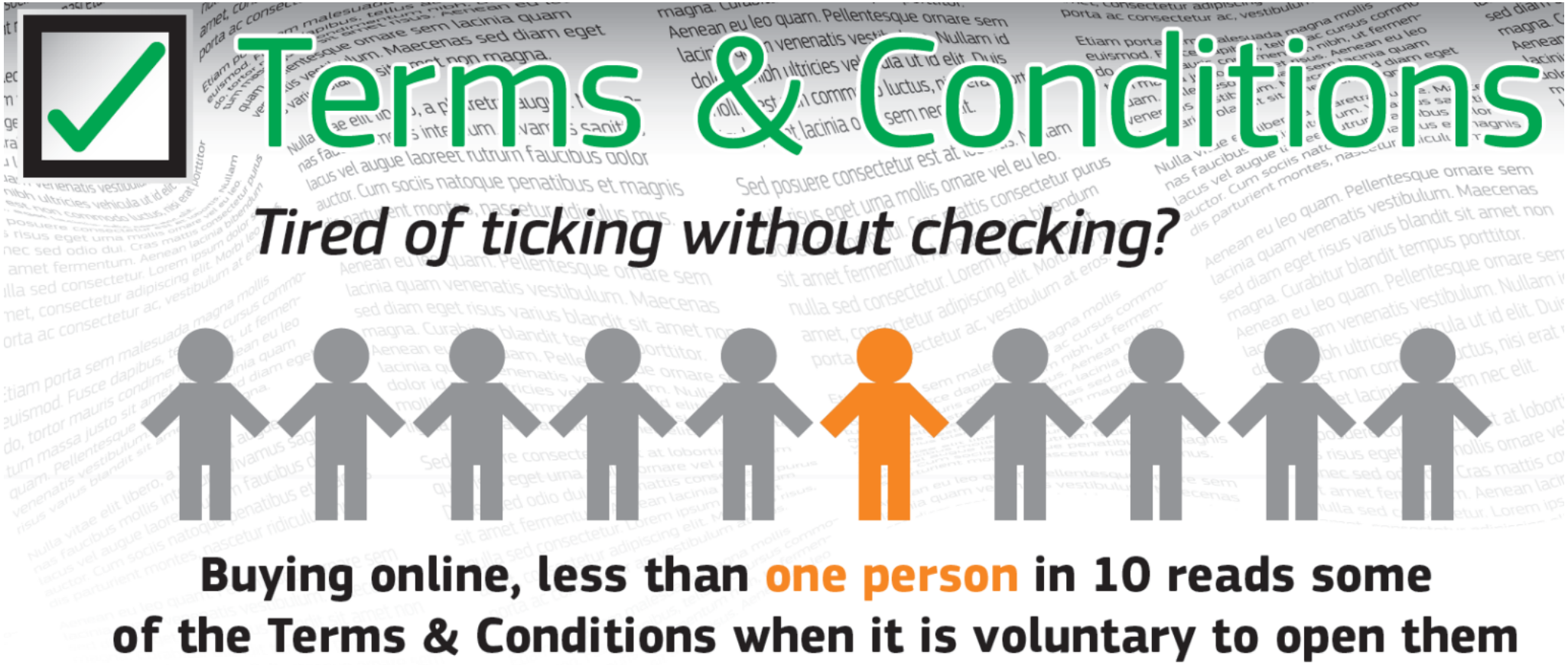
The signing-without-reading problem

Eurobarometer Special 447 on online platforms, 2016

- Thinking about the terms and conditions on online platforms, which of the following best describes your situation?



The signing-without-reading problem



Study on consumer's attitudes toward online Terms and Conditions (European Commission 2016)

The reading-without-understanding problem

The Atlantic

Why Privacy Policies Are So Inscrutable

The agreements of the 50 most popular websites in America are composed of 145,641 words. This is why.

MARCUS MORETTI AND MICHAEL NAUGHTON | SEP 5, 2014 | TECHNOLOGY

DECEMBER 4, 2014

Half of online Americans don't know what a privacy policy is

BY AARON SMITH | 5 COMMENTS



What is a privacy policy?

When Pew Research Center asked about this on a recent survey measuring public

The effects of the phenomenon

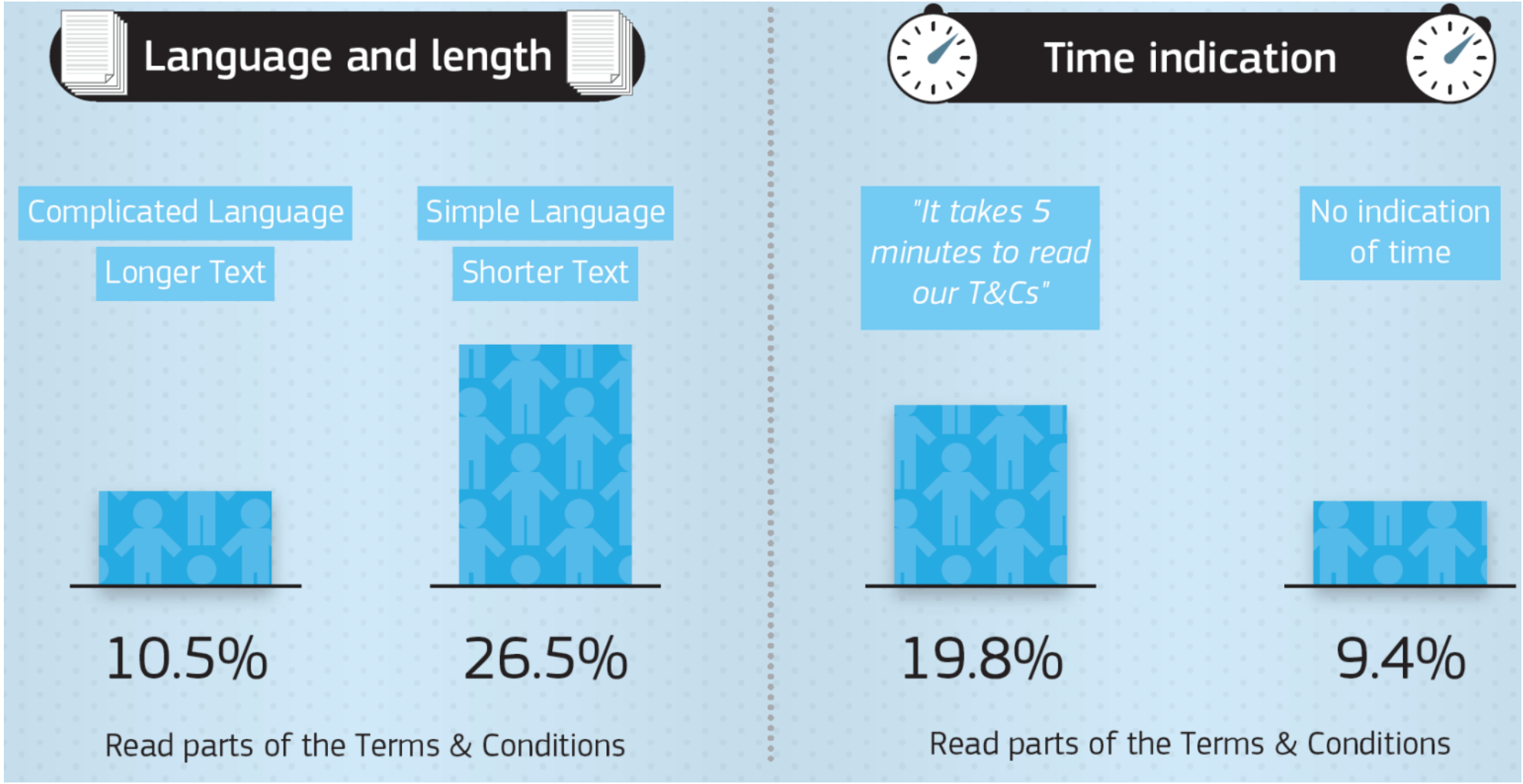


Study on consumers attitudes toward online Terms and Conditions (European Commission 2016)

We don’t read the terms because we don’t care about our rights (e.g. privacy paradox) or because they are too long, too opaque, and non-negotiable?

The better the quality of the Terms, the more users will read them

Study on consumers' attitudes toward online Terms and Conditions (European Commission 2016)



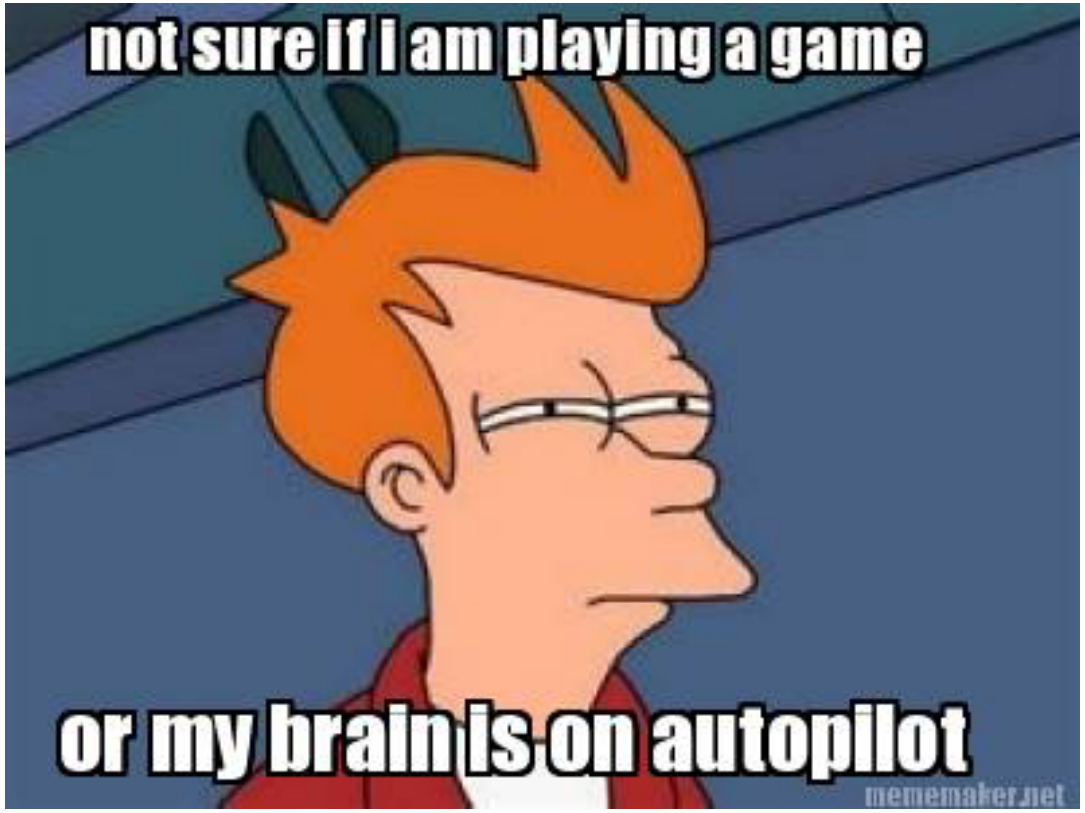
Why the Terms are so bad?

- Usually copied and pasted from the US versions
- Lawyers who draft them will try to save the client from any potential lawsuit, liability, etc.
- Imbalance of power + mass transactions = non negotiation
- Social engineering

Social engineering: *“Don’t make me think!”*

Social engineering: the online experience must be designed in such a way that the user goes on “autopilot” mode.

The first principle in designing websites is usability, which has been described with the worrying slogan “don’t make me think” (Krug 2005)



The Internet of Platforms

An empirical research on private ordering and consumer protection in the sharing economy

Guido Noto La Diega and Rossana Ducato

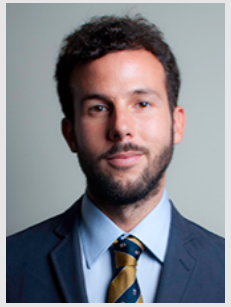
Geneva Internet L@w Research Colloquium - 23 June 2017

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To read or not to read



Why consumers do not read the boilerplate?

- **Where** is the contract? (Radin 2013)
- Consumers suffer from various forms and degrees **of illiteracy and innumeracy** (Radin 2013; Busch 2016)
- **Lengthy mandatory disclosures** seems to be ineffective in a context where consumers derive information from icons, pictures, experience from other peers (OECD 2016)
- The activity of reading is extremely **time-consuming** and essentially useless since it is impossible to negotiate with the strongest party (Elshout, Elsen et al. 2016)
- Consumers **do not care** about contracts (Ben-Shahar 2009, Plaut and Bartlett 2011)

The sharing economy



…and the IoP



- Communication, A Digital Single Market Strategy for Europe (2015)
- Communication on Online Platforms and the Digital Single Market (2016)
- Communication on the Mid-Term Review on the implementation of the Digital Single Market Strategy (2017)

"a lack of transparency as to how [the platforms] use the information they acquire, their strong bargaining power compared to that of their clients, which may be reflected in their terms and conditions"

(Commission, 2015)

THE “LEGALS” MAZE

- Platforms are filling the gaps left behind by legislation in an inconsistent way
  - The lack of transparency and fairness is epitomized in the “**legals**”

- the **private ordering** imposed by platforms through a bundle of ToS, privacy policy, end user license agreements, norms of the community, copyright policy, user generated content policy, non discrimination policy, promotion terms and conditions, guidelines for law enforcement, guidelines for third party data request, patent purchase program, unsolicited idea submissions policy, firearms prohibition policy, zero tolerance policy, service animal policy, app permissions, other……

The research hypothesis

- Consumers accept the legals **without reading** them, not because they do not care about their rights, but because the platforms are not transparent
- the opacity of legals, coupled with an intricate corporate structure and a complex supply chain, renders **impossible for the consumers to find, read and understand** them



"Sign here to indicate you have no idea what you've signed."

An example



- 50 legals
- 92,171 words
- Approximate reading time: 10 hours and 20 minutes
- 9 permissions required for the app
- Complex company structure
  - “Accepting the User T&C, one is contracting with four companies, Uber London, Uber Britannia, Uber B.V., and Uber NIR. They are controlled by Uber Technologies, Inc., which does not appear in the contract. Most of the T&C, however, refers to a non-existent company called Uber UK, which <shall mean each of Uber London, Uber Britannia, and Uber NIR>. In a lawsuit, who would be the defendant?” (Noto La Diega, 2016)


SEARCH. SOLVE. ESCAPE.

The Awareness by design approach



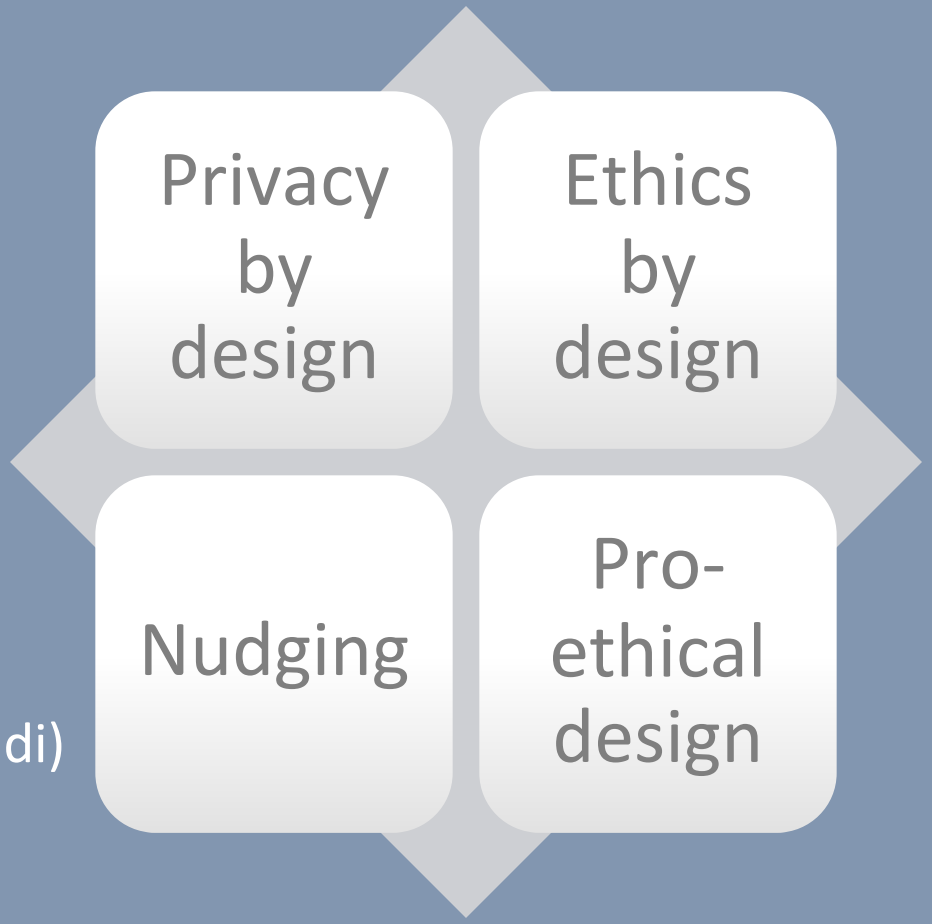
- Using technology, law, and behavioural sciences to empower the user

- **B.aware app**: a tool for making users aware of risks, rights, and obligations

- The **PoP** (Platform on Platforms): a tool for sharing the user's experience

A “- by design” taxonomy

- Article 25, GDPR
- The 7 Foundational Principles (Cavoukian)

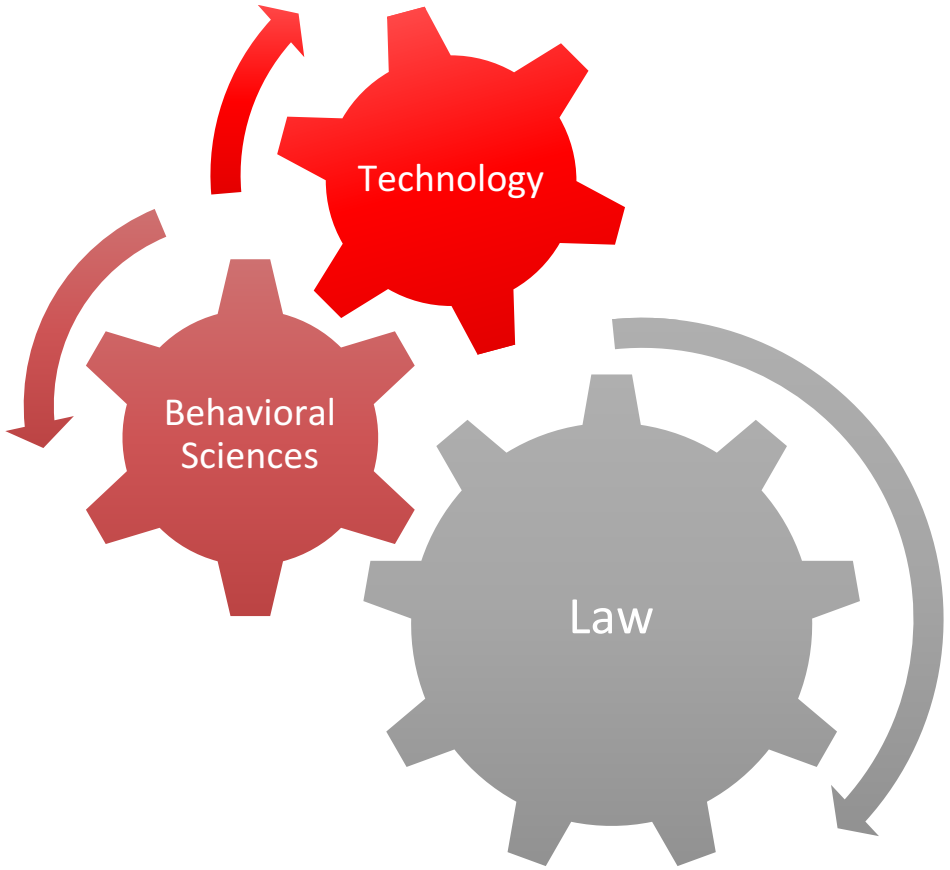


- To embed social values throughout the design process (Friedman)

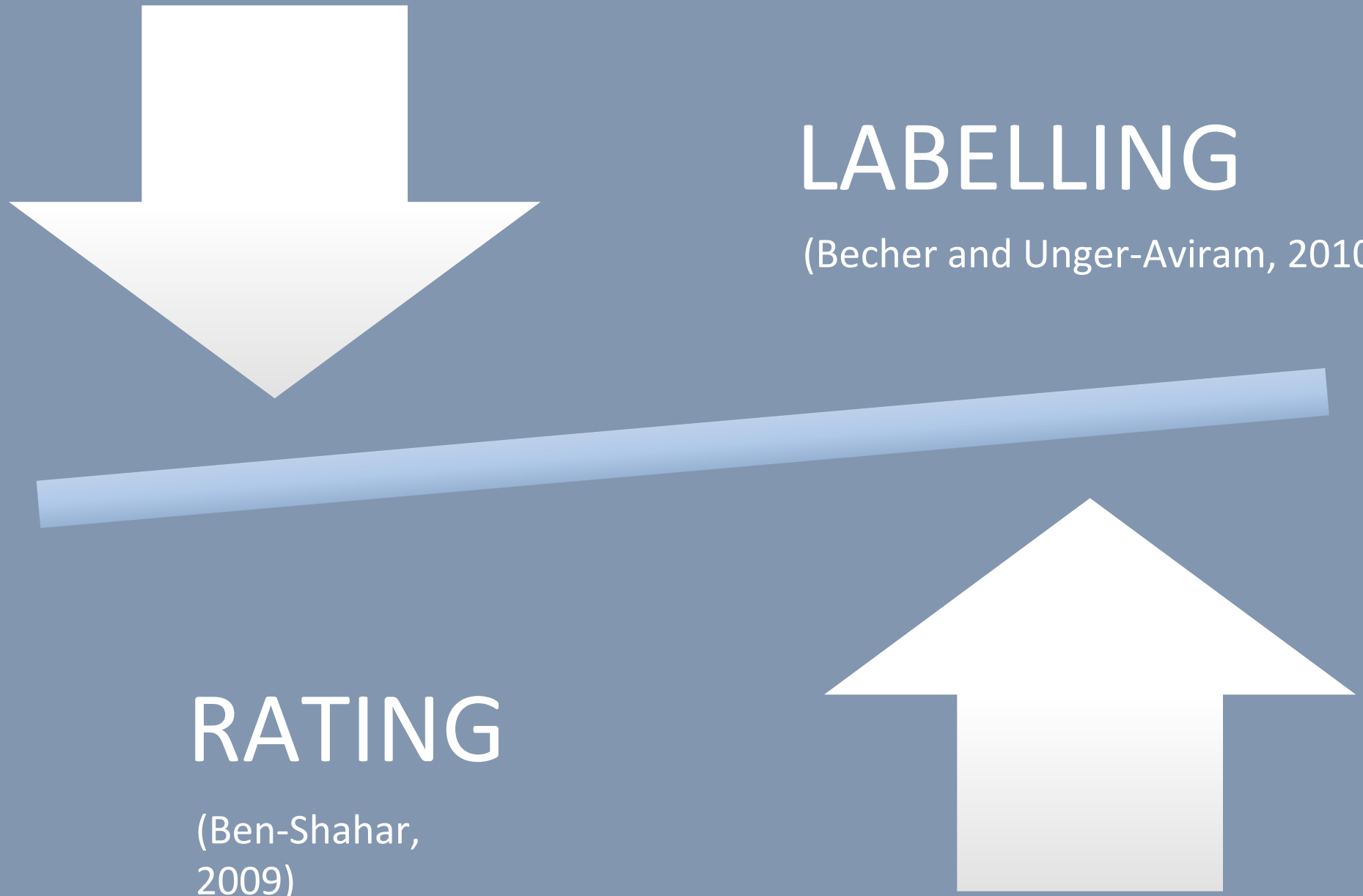
- Thaler and Sunstein
- Structural nudging
- Informational nudging (Floridi)

the architecture shapes only the information about the actual options available, relying on human intelligence and explicit interests as the pragmatic motivation for action (Floridi)

B.aware app

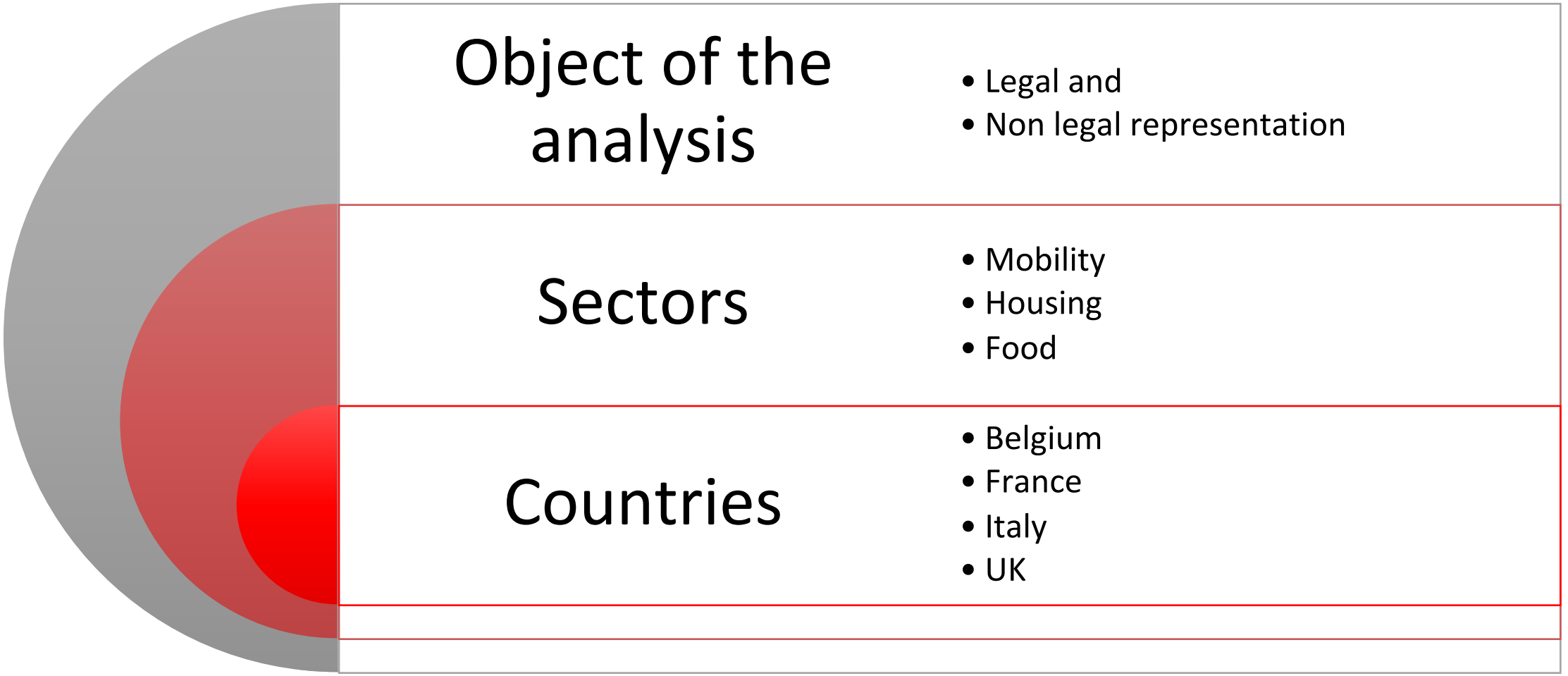


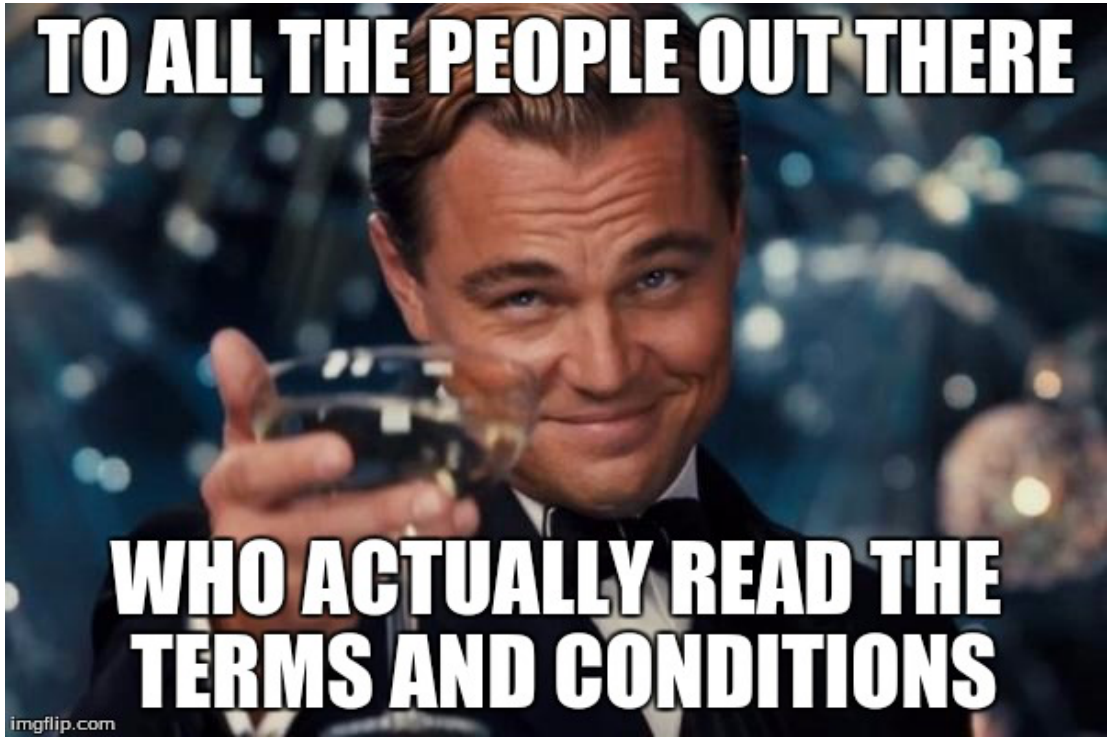
- The app will **check** the legals and alert the consumer about any peculiar condition
  - In particular, unenforceable and unfair terms
- The app will **rate** the “legal quality” of the T&C, privacy policy, etc.
- The app will be **user-centered**
  - Lack of empirical data on consumers’ preferences (Helberg, 2013)


LABELLING
(Becher and Unger-Aviram, 2010)
RATING
(Ben-Shahar, 2009)

The methodology

An empirical and comparative study





Thanks for your attention!

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