4-4-2014

Big Data and the Transparency Debate

Cardozo Arts & Entertainment Law Journal

Recommended Citation

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Posted on April 4, 2014

As its name suggests, "big data" is huge. The meme refers to the collection and analysis of vast data sets collected everywhere in the digital domain from web searches to social network communications, to Internet advertising, to even the numerous digital sensors integrated into our daily lives. Paired with increasingly sophisticated computing intelligence, the predictive power of big data has caused data to become an indispensible asset for businesses and the government. Generally, businesses use big data to target potential customers while the government uses data to monitor and enforce governmental and national security policies. Omnipresent data-mining algorithms as well as surveillance law used to generate predictions for businesses and the government, however, have raised privacy concerns and spurred a debate on the role of transparency in the Information Age.

Several panelists at the AELJ's Spring Symposium on Data Privacy and Transparency addressed virtues and vices of the transparency as it relates to big data. On the most basic level, transparency promotes democratic values of fairness, accountability, and an informed American public. Transparency reports also provide a vehicle by which individuals may raise their privacy rights before the courts without having to rely on companies or government agencies to bring privacy cases on their behalf, thus promoting efficiency and autonomy. Another virtue of transparency is the promotion of innovation. While it would admittedly be impossible to obtain consent for every way that data could be used in the future, big data is collected as raw material for data-driven discoveries so that transparency could be useful in promoting innovation regarding how data is analyzed and how patterns and behaviors are revealed.

On the other side of the debate, one of the major vices of transparency is in the realm of national security. The argument holds that transparency would undermine legitimate government aims. Were transparency to disclose the government's data collection techniques or disclose which players cooperate with the government, wrongdoers could work around the techniques or avoid interacting with those players, and thus game the system. More fundamentally, however, the argument against transparency is that disclosure only works when the information becomes embedded in decision-making, which may fail to occur regarding big data. Comparing big data to nutrition information, the characteristics of transparency that make nutritional labels successful are arguably not present; for example, in big data the policy purpose for the disclosure may be unclear such that transparency reports do not really effect decision-making. Despite its vices, the panelists agreed that big data transparency serves an important public function, as big data is here to stay.