Data Protection Policy Delivery Team
Information Commissioner's Office
Wycliffe House
Water Lane
Cheshire
SK9 5AF

Sent by email to: consultations@ico.gsi.gov.uk

23 August 2012

Dear Sir,

Draft Anonymisation Code of Practice

I write on behalf of The Market Research Society (MRS) in response to the consultation on the ICO's draft Anonymisation code of practice. MRS welcomes the opportunity to respond the consultation and we confirm that no part of this response is confidential.

About MRS

With members in more than 60 countries, The Market Research Society (MRS) is the world's largest research association. It's for everyone with professional equity in market, social and opinion research and in business intelligence, market analysis, customer insight and consultancy. In consultation with its individual members and Company Partners, MRS supports best practice by setting and enforcing industry standards. The commitment to uphold the MRS Code of Conduct[1] is supported by the Codeline service and a wide range of specialist guidelines.

The draft Code of Practice

We have reviewed the draft Code and the consultation document and have taken the consultation questions into account in preparing this response.

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[1] http://www.mrs.org.uk/standards/code_of_conduct/

General comments

Generally this is a well informed document and the examples in the appendix are particularly valuable. There is however an over emphasis on numerical and quantitative data, and the draft ICO Code of Practice does not reflect the scope of qualitative data that can be processed and published. For example, as I outlined in my presentation at the ICO Anonymisation Seminar in March 2011, there can be particular issues around:

- verbatim comments which contain specific information or verbal tics which would indentify individual participants in qualitative research projects;

- mapping and geolocation data other than postcodes; other information such as IP addresses, unique device IDs or longitude and latitude information used by GPS systems may also establish the indentify of individuals;

- transaction or contact histories which provide a unique signature of an individual's relationship with company or other organisation.

We would recommend that examples of anonymising non-numerical or statistical data are added to Appendix 1.

The draft ICO Code of Practice potentially underestimates how much data will be re-identifiable in the future and how fast technology will progress. In the section on motivated intruders for example, the intruder is assumed not to have specialised skills – however the increasingly rapid development of technology and computer science will mean that what was once specialised will become commonplace. This is illustrated by the work of Narayanan and Shmatikov, discussed by Paul Ohm in his paper *Broken Promises of Privacy: Responding to the Surprising Failure of Anonymization.*[2] The Code should:

- identify key areas where the state of the art is likely to progress rapidly – this includes computer science where programmes and techniques (including hacking techniques) once established can enter widespread use in short periods of time;

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[2] UCLA Law Review, Vol. 57, p. 1701, 2010

- encourage a conservative approach to anonymisation and data release particularly where individuals have been specifically promised anonymity, as is the case in market, social and opinion research and the medical sciences.

The research exemption

In Section 9, the ICO sets out its view that research must be a properly defined research or investigation undertaken to discover facts and increase knowledge. In the MRS Code of Conduct, research is defined as:

> *... the collection and analysis of data from a sample or census of individuals or organisations relating to their characteristics, behaviour, attitudes, opinions or possessions.*

> *It includes all forms of market, opinion and social research such as consumer and industrial surveys, psychological investigations, qualitative Interviews and group discussions, observational, ethnographic and panel studies*

In the section on the research exemption, the draft Code of Practice says that it could be available to "social research". Given the expansive view of research expressed by the ICO, this phrase should be expanded to "market, social and opinion research".

Statistical data

The Glossary in Appendix 4 reflects the narrow focus on numerical data mentioned above. Statistical data is explained as "information which is held in the form of numerical data..." This in turn reduces the scope of other explanations such as "aggregated data" which rely on this interpretation. From the examples set out in Appendix 1 however, it is clear that statistical data in not restricted to numerical data, as the tables contain information on gender and ethnicity, for example.

This distinction is recognised by other bodies such as the Council of Europe. In its Recommendation R(97)18[3] "Statistical results" are defined as :

> *information which has been obtained by processing personal data in order to characterise a collective phenomenon in a considered population.*

The Explanatory Memorandum[4] that accompanies the recommendation says that:

> *Statistical results frequently take the form of numbers, such as totals, averages, percentages or indices; or they may take the form of numerical tables showing a breakdown of the population in terms of various individual characteristics (age, profession, place of residence, level of education, income, miscellaneous behaviour patterns, etc.). Totals or enumerations are sometimes referred to as "aggregates", and this term is also sometimes wrongly applied to other numerical results. However, statistical results may also be non-numerical: they reply to a question such as "Is a particular characteristic linked to another?" (for example, "Is a particular illness caused by diet?"); or they may take the form of a typology, for example the identification of groups characterised by certain common situations or behaviour patterns, territorial location or collective professional classification, etc.[emphasis added]*

Given the wide range of anonymity problems that researchers face in reporting both quantitative and qualitative data, we recommend that the ICO Code of Practice recognises all the forms of data that could identify an individual. Accordingly we recommend that at the very least the word "numerical" is removed for the explanation of statistical data.

Conclusion

MRS is very interested in developments on this topic and would appreciate being involved in any future consultations. We are also very willing to assist the ICO in
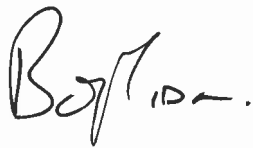
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[3] http://bit.ly/SgBDua

[4] http://bit.ly/PBJjGb

drafting its Code of Practice, including adding some further research examples in the context of data anonymisation.

Please do not hesitate to contact me if you have any queries regarding this response.

Yours sincerely,

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