



Privacy and Safety Concerns: What Protections Do Online Dating Services Owe Users?

Teaching Notes

Author: Brendan D. Dooley

Online Pub Date: January 15, 2020 | **Original Pub. Date:** 2020

Subject: Business Ethics, Risk Management, Information Management

Level: Intermediate | **Type:** Indirect case | **Length:** 2777 words

Copyright: © Brendan D. Dooley 2020

Organization: Ashley Madison| OKCupid| Tinder | **Organization size:** Medium| Large

Region: [Northern America](#) | **State:**

Industry: Information and communication

Originally Published in:

Publisher: SAGE Publications: SAGE Business Cases Originals

DOI: <http://dx.doi.org/10.4135/9781529724905> | **Online ISBN:** 9781529724905

© Brendan D. Dooley 2020

This case was prepared for inclusion in SAGE Business Cases primarily as a basis for classroom discussion or self-study, and is not meant to illustrate either effective or ineffective management styles. Nothing herein shall be deemed to be an endorsement of any kind. This case is for scholarly, educational, or personal use only within your university, and cannot be forwarded outside the university or used for other commercial purposes. 2020 SAGE Publications Ltd. All Rights Reserved.

This content may only be distributed for use within CQ PRESS.

<http://dx.doi.org/10.4135/9781529724905>

Teaching Notes

Case Study Summary

In the summer of 2015, Ashley Madison, a dating site promoted under the banner of “Life is short. Have an affair,” had its 37 million users targeted for doxing. The refusal of the business to capitulate to the demands of the hackers resulted in the posting of personal information from all its users, including intimate details of these online connections. In the media frenzy surrounding the tabloid story, the details of many unethical business practices emerged. Although many who followed the story found a savory irony in witnessing a pool of potential cheaters pairing with a provider with unscrupulous business practices, there are two implications that should give pause to all Internet dating consumers. The first is over what privacy protections are owed to the users by the provider. The second is over whether the boundaries of responsibility extend beyond the Internet into real life. Students are encouraged to determine just how much protection online dating providers ought to be allocating to their clients and why. Any entity that collects sensitive data will be faced with weighing a set of trade-offs.

Teaching Objectives

This case study is dedicated to considering what protections online dating service providers owe to their clientele. The limits and expanse of those expectations will require reflection on how much responsibility is theirs versus that of the consumer to bear. Instructional objectives of the case are to:

- Link the dramatic case that is highlighted to more mundane online privacy matters that we must address.
- Explain the trade-offs involved with weighing user responsibility against that of the provider.
- Help students evaluate a set of potential solutions to the dilemma of allocating responsibility.

Target Audience

This case introduces some mature subject matter. Therefore, it is recommended that instructors exercise discretion. The topical concerns relate most directly to courses in undergraduate business ethics, law, and computer science. The points raised over how much governmental oversight might be required to solve the problems raised can be profitably examined under the auspices of political science. That concern and that of the matter of having dual identities (online and in real life) offer fodder for sociologically informed discussions.

Suggested Teaching Strategy

The three points of emphasis with the teaching strategy mirror that of the three teaching objectives specified above. The first works to anchor the discussion not in the seedy world of marital infidelity—as most undergraduates are unmarried—but of more pedestrian issues of managing online presence and activity. The second moves the discussion to what dating service providers and users owe to one another. Third, there are a list of potential remedies to consider when thinking about what might be done to limit the potential for harm to result from the use of online dating platforms.

Each of us has an online presence of some kind. Additionally, there are multiple pieces that comprise our identities. Those identities are represented in the various social networks in which we participate. It is likely that there are groups in which we are active participants who have no idea that other parts of our identity

indeed exist. There are hardcore motorcyclists who are knitting enthusiasts; Christian fundamentalist ministers who brew beer; radical feminists who own guns and hunt. The beauty of the human personality is that it can reconcile these seemingly paradoxical identities without betraying any hint of irony. Some might regard these activities as antithetical but we as individuals are the ones who assign meaning to them. After all, the minister may simply brew but not partake in drinking and the feminist may simply emphasize hunting and gun ownership as empowering. There may be no contradiction, despite the appearance of impropriety. However, when information regarding one aspect of our identity is mismanaged or spreads beyond our control it creates tension. Demands are made on the individual to offer a satisfactory explanation.

Students who have grown up in iGen (the Internet generation) are well versed in the complicated matter of cultivating an online presence and knowing how that may interfere with social interactions in real life. There are illustrations aplenty of some public figure having a part of their past archived on the Internet then later unearthed to damage their reputation. Many of us have conducted business online that would reveal an illness (mental or physical), a purchase of questionable taste or legality, gossip delivered in severe language, or unethical behavior as relates to a romantic partner. Of course, most come to regret such indiscretions and desperately hope these facts do not make their way into the public domain. The same thoughts apply to what transpires on dating and “hook-up” apps (e.g. Tinder and Craigslist) commonly used to facilitate romantic liaisons of various sorts. Young adults may have mistakenly put content online confessing deep-seated desires and fears, a record of sexual experimentation, and reaction written in a fit of impassioned emotional pique. Again, as time elapses thoughts on these matters are likely to shift considerably. While conscientiously avoiding asking for any sensitive information, the instructor may begin the dialog by asking whether anyone would wish to either permanently erase some identity marker or whether they fear such an indicator from their past being revealed at some future point. Some may have already experienced their online life unexpectedly intersecting with their flesh and blood reality or vice versa.

The matter of identities colliding above leads us in the direction of the second focal concern. What should we expect from providers and users in terms of their responsibilities? The Health Insurance Portability and Accountability Act (HIPAA) of 1996 sets strict legal expectations with the management of sensitive medical information. There is a corresponding set of punishments for failing to adhere. With online dating, the management of information is much less defined. Classroom discussion may want to pursue any one of the following questions:

- Is it ethical for a company to promote marital infidelity?
- Do providers bear a responsibility to police the behaviors of their users, including abusive language and abusive behavior (in real life)?
- Ought there to be a requirement to flag profiles that offer falsehoods or are intentionally misleading?
- What is to be done with those who violate these policies?
- What safeguards ought to be put in place to ensure maximum privacy for site users?

Some of the concerns are more serious than others. The difficulty arises with the potential for liability to arise should there be negative consequences from encounters facilitated through an online connection, some of which could be life-altering.

On the other side of the equation is the platform user, who may bear some responsibility in minimizing the potential for harm. Dating customs were historically overseen by immediate family members and indirectly by those in the community. As courtship moved to become more private there was a relaxation in the norms (Bailey, 1989). That relaxation was wide enough to permit extensions in the boundaries of sexual behavior. Most of the pressures that dominated the early 20th century applied to young women to prevent out-of-wedlock childbirth. There was a corresponding set of expectations that young men intended to ensure they acted in a gentlemanly manner. Most of those have vanished. The anonymity of the Internet and ease of partner selection has accelerated the backsliding on the expectations of young men to prepare themselves for monogamy and marriage (Regnerus, 2017). Perhaps there ought to be a list provided by Internet dating sites that advises

men and women using the service to adhere to a set of behavioral norms, such as to avoid providing personal information. Providers may wish to verify accounts, as Twitter has done for some years now. If websites are going to be held liable, might they consider some kind of insurance policy by gathering identifiers from users and requiring contracts that detail the terms of service. To the extent that users are aware of the potential drawbacks of mingling online they will be more discreet. Appreciating that information swapped online can seep outside that domain can operate as a powerful prophylactic in preventing harms to reputation.

The concluding teaching aim is to appraise a few potential solutions to reducing the prospects for another Ashley Madison type disaster in the future. For the sake of brevity, there are two broad categories of regulation that can be considered presently. The first is one that is governmentally centered. One means of attending to consumer protections can be operated under the auspices of a few federal and state regulatory bodies, depending on the type of infraction alleged. Violations carry consequences of potential fines or criminal sanction. Governmental bodies may even elect to coordinate their policing of online misbehavior with organizations like the Better Business Bureau in documenting sites that have a record of questionable practices. Responses driven by governmental intervention are likely to be favored by those who are skeptical that a competitive market will in fact promote consumer protection.

Alternatively, there may be a set of market mechanisms that can work to promote the creation of a more collegial dating environment online. One such measure may be through pursuing not criminal but civil suits. Seeking financial damages against providers and users who engage in abusive behavior would force service providers to develop policies that will limit those damages. Ashley Madison was subjected to a USD 567 million class-action lawsuit in the aftermath of the data breach. It ultimately settled for USD 11.2 million, which may explain why the site is still in operation. Nevertheless, communicating displeasure with a product by taking a chunk of its profits could serve as a powerful deterrent. Consumers might also consider an alternate mechanism by working to ensure greater transparency. One way, other than having site administrators actively policing behavior, is to permit users to rate one another. Any given site can promote good consumer behavior by facilitating reviews (within reason) that others might peruse, much like Amazon.com or Rate My Professor would.

Suggested Answers to Discussion Questions

1. What might be done to introduce more transparency into online dating?

A third-party approach would require some governmental entity to take charge of regulating the service providers as an industry. At that point the powers that be could draw up a list of expectations, a consumers' bill of rights so to speak, and enforce those expectations. Alternatively, consumers may express demands to have more input into the proceedings either through pursuing civil lawsuits or via posting some sort of consumer ratings on those they have had verified dates with on the site itself.

2. What protections do online providers owe to their users?

Some might argue that this is a question best enforced by consumers rather than the government. Those sites offering the optimal balance of freedom and protections are those that are likely to receive the most business. Alternatively, there are legal protections that are owed to those whose rights are violated through activities facilitated by the applications to be taken into account here as well. Students will vary in terms of where they elect to draw the boundaries on these questions and the reasoning used to justify their position.

3. What might you suggest as an optimal strategy for ensuring privacy?

There will be varying proposals, including creative pairings of consumer and provider expectations, that students will promote. The important point is not the answer *per se* but the thinking generated in considering a range of alternatives. There are drawbacks and advantages for each of the alternatives offered in the case study and teaching notes. Justifications for one proposal or another ought to demonstrate depth and rigor.

4. Are there practical measures vendors might provide to offer some measure of quality assurance?

Agencies providing monitoring or oversight may have institutional incentives to draft one set of expectations or another. Consumer-driven preferences demanded of providers might evidence themselves in a different set of measures. Opinions will vary on account of ideological predispositions for one actor over another in settling the matter. Those advocating for government or an external party may have fears that online consumers may be too ignorant of the technicalities of online activity to be their own best advocates.

References

Bailey, B. L. (1989). *From front porch to back seat: Courtship in twentieth-century America*. Baltimore, MD: Johns Hopkins University Press.

Regnerus, M. (2017). *Cheap sex: The transformation of men, marriage, and monogamy*. Oxford, UK: Oxford University Press.

<http://dx.doi.org/10.4135/9781529724905>