

## **Ethical acquisition of digital customer data**

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### **ABSTRACT**

This case is designed to force students to examine the complexity of a customer data acquisition within a technology firm. The core ethical dilemma of acquiring this data through legal, although still misleading, methods is the focus, however key questions concerning its implementation, competitive pressure, and generational views concerning company use of customer data are also explored. This case has been written in an active learning format where students may act out the various roles in class to facilitate greater engagement or may be used as a traditional case.

Keywords: Internet Marketing, Ethics, Data-base Marketing, Data-Sharing, Privacy



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## **INTRODUCTION**

Narrator: The Orange Corporation has been selling smartphones very successfully for over a decade. Each iteration of their flagship product, the U-Phone, has been a smash hit every single year. The company has been successful largely due to the fact that they gather a great deal of customer information through their smartphone and they have been thinking long and hard about ways they can learn even more about their customers. They learned that they can market their product better to people when they know more about their daily conversations and living environment and have just devised a strategy to gather more customer data than any other corporation in the world. A young marketing manager comes in to present to top level management at Orange Corp.

## **INITIAL PRESENTATION**

Marketing Manager: Ladies and gentlemen, I would like to present to you the most ambitious customer data acquisition plan ever devised! Our cross-functional team of engineers, marketing, and legal experts have come up with a cutting-edge new strategy to gather customer data. We already know a great deal about our customers from harvesting their texting, social media posts, GPS data, apps and browsing history on their phone. But now we can take the next step. We have developed software which can enable our phones to listen in and even view our customers and their surrounding area with software that can activate the microphone and cameras of every phone on a near constant basis! This audio and visual data will then be sent to our company servers where software can convert it into descriptive text, which will then be assimilated with what we already know from our customers using our current methods. This real time knowledge of each customer's verbal conversations and visual data is going to be a quantum leap in our understanding of customers and our ability to market successfully to them.

## **Discussion Questions**

- 1) What differences do you see between a company acquiring, storing and using their customer texts versus customer phone conversations?
- 2) Is using a smartphone to listen in on customers while they are not actively using their phone different than acquiring conversations that they have via text or phone call on the smart phone?

## **IMMEDIATE RESPONSE FROM SENIOR MANAGEMENT**

Narrator: There opening statements made by the marketing manager provoke a sharp response by the Chief Operating Officer, who appears hostile to the strategy presented.

Chief Operating Officer (COO): I'm going to stop you right there! You seem very excited by this so I'm sure you're about to go on about how this is going to lead to increased sales, ROI and profitability.

Marketing Manager (MM): YES! That is exactly where I was going with this!

COO: Well there appears to be great potential to learn more about our customers, but I'm personally shocked that you are presenting this as a legitimate strategy for several reasons. Firstly, how is any of this remotely legal?

MM: Well, long story short it isn't in most countries, but it is in many and that is the beauty of this. With GPS data, we know where it is legal and based on where people are the software will turn on and off! Once it is established in a few areas, we can start lobbying other governments to get it legal in other parts of the world.

COO: Okay, I'm going to assume this has been vetted by legal. But people are generally concerned about their private lives, as soon as people hear about this they will be infuriated! This goes way beyond what any major company has done before. I'm no stranger to data sharing, and I know we collect tons of it, but this personally feels like a direct invasion of privacy. Honestly, who would be OK with a company not only listening in to their private conversations but recording and analyzing them as well!? This is madness and cannot even be considered.

Narrator: A number of other top managers nod their head in agreement with the COO.

### Questions for Discussion

- 1) Thinking about their different roles and responsibilities, why would a Chief Level Officer in this company feel differently than a Marketing Manager who is lower on the corporate ladder about this idea?
- 2) Does implementing software such as this in countries with weak consumer protection raise any ethical concerns? Could it affect the firm's image in countries with stronger laws if consumers there heard about the company doing this?

### IMPLEMENTING LEGAL MISLEADING TACTICS

MM: Well, let me address these concerns. First, yes, it has been vetted by legal. All we must do is have people agree to our Terms and Conditions, which we can force them to do the first time they start up their phone or they can't use it.

COO: Yes! And the instant people see that they are going to –

MM: And that sir, brings me to my second point. No one is going to see this in our terms in conditions. Not in any effective fashion anyway.

Narrator: Mumbling and confusion can be heard in the room from the audience of managers, who were eager to learn the specifics of this new strategy.

MM: Let's start by saying that our analytics estimate that less than 5% of people read any of our terms and conditions before agreeing to them and that less than .01% read all of them. Most customers have been buying our products for years now, and just click "Accept" without thinking whenever we put forward one of these terms and conditions. Now, of course we are in the digital age and any one of those point zero one percent could easily read share it online or send it to the media, which could provoke a response. But we are prepared for that! You see, we must put a description of what we are doing in these TaC's, but that description doesn't necessarily have to be clear. Let me read you some of these who were developed by our amazingly creative legal team. Here it says "Close proximity laryngital spasms perceptible to levels near, at or above homo sapien or homo erectus, but not within canis lupis familiaris normal levels of regularity but not limited to understanding may be subject to auditory processing using partially combined digital enhanced doubling" etcetera etcetera. It goes on for about 16 paragraphs, but it simply says the user consents to letting us listen to them talk while they are near our devices! We have one of these for video too. These two terms and conditions will be mixed in with our 1452 others in what amounts to an impressive 479,000 words in our terms of conditions document! It's longer than a college textbook and nearly all of it can't be understood by anyone! No one except us will know. Effectively, every single person using our phone is going to click "Accept" before knowing what this means, and they will immediately forget doing it once they start playing with all the cool features! This is more extreme than any terms we've devised before, but let's be honest, most of our competitors have been heading this direction for a while and so have we.

## Discussion

- 1) How many "Terms and Conditions" have you agreed to in the last month? Year? When is the last time that you read any of them? Do you think you agreed to something that you may not have if you knew the details of the terms?
- 2) While legal, are there any ethical concerns with intentional manipulations using terms and conditions? If you later found out that you agreed to something in this way that you didn't want to, how would you respond?

## ETHICAL DEBATE

COO: Excuse me, but don't you find this to be profoundly wrong? It sounds like we would be doing everything in our power to mislead our customers in order to take information that they don't want shared with anyone. I mean, even if we are able to hide all of this and even if we keep it legal won't we be able to see and hear anything people are doing?

MM: Anything and everything sir! That is the whole point. We expect a 15% increase in sales next year with this kind of unprecedented customer knowledge. And that is just scratching the surface! The more we see and hear from people the more we can persuade them. We can even sell this data to third parties if we want! Customers will just have to click agree on another checkbox.

COO: I'm sorry, I don't know how every else feels but we absolutely cannot do this. It is a profound invasion of privacy. We are decades away from people even considering something like this to be acceptable, anyone even remotely concerned with their private information would revolt and that could destroy our company image. Plus, it seems like we are getting them to agree in a disingenuous way. This entire project crosses the line in a serious way.

MM: With all due respect sir, what line does this cross? People share everything nowadays. Sure, many older generations tend to take privacy very seriously. Today, it's all about sharing. Our kids, teens and young adults these days share almost everything they say and do with the world. They know that companies track the websites they go on and don't care. They know we track almost everything they do on their phone and they don't care. They have multiple social media accounts, they have devices in their home that listen to them, so they can verbally command to play them music or order stuff online. Most of them already happily agreed to terms where we can track their movements constantly with GPS. Even when people found out after the fact that companies were tracking them, most simply didn't care. Baby boomers would've been horrified at this stuff 30 years ago, even calling it wiretapping or surveillance. Millennials just generally don't care. They know companies are using their data and have seen that they really haven't been hurt by it, so even if they find out about this, we don't think it will be a big deal.

COO: If what you're saying is true, then why the elaborate scheme to hide it? Why not just plainly tell everyone what we are doing? That way we can get the data and not worry about this whole scheme to hide it.

MM: Well sir, that's just not how most of our colleagues in the tech industry operate. They know that their customers can get whipped up into a frenzy if you tell them you are going to start collecting more of their information, and that they have to agree to it to keep using your service or product, but if they find out all this after the fact they are generally OK. It would be best to just keep it in the dark for now, let news of this come out a few years later and we shouldn't face much significant blowback.

COO: So even you aren't terribly confident that our customers will accept this young or old! We have to obfuscate and mislead to make it all work. That tells me everything I need to know about this whole plan!

### **Discussion Questions**



- 1) Is it unethical to collect data in this manner assuming most, but not nearly all, of the customers that will be affected likely won't care about this acquisition policy?
- 2) Are the marketing manager and COO speaking from their perspective of employees of the firm with different roles and responsibilities or is their age disparity the core issue?

### **THE FINAL DECISION**

Chief Executive Officer: That's enough gentlemen! I think we all have a clear understanding of the capabilities and implications of this strategy. Thank you for your presentation. We will now have a closed meeting to take the time to discuss it.

MM: Yes, ma'am and thank you. Just please keep in mind we must move quickly to make this happen for this year's launch. We would be leaving a lot of money on the table if we wait.

Narrator: The CEO asks for thoughts of the other top managers. They are deadlocked but are all sticking to their beliefs strongly. There appear to be three main competing options. First, some are saying that Orange Corporation has been an innovator in customer data acquisition for a long time, perhaps they should be the first company to try this and do so as proposed, so they can reap the most profit from it. A second camp of senior managers brought up the idea of waiting to see if other companies employ similar strategies and see the public response to that before implementing it. Finally, a third group of managers led by the COO are unilaterally opposed to the idea saying that misleading their customers to acquire data is wrong and that the whole plan should be scrapped. The CEO must make the final call.

### **Discussion Questions**

- 1) If you were the CEO in this case, which of the above action is the most prudent for the company and why?
- 2) If the company does decide to pursue this strategy as described by the manager, and news broke out that the company was pursuing these actions, how would you defend this strategy on ethical grounds?
- 3) If the company decides not to pursue this strategy and shareholders found out that top management left a potentially significant amount of profit on the table, how would you defend this decision to shareholders?