

# Can I, May I, Should I?

IPIN 2021

Malcolm Bain

Lawyer

Across Legal, Barcelona

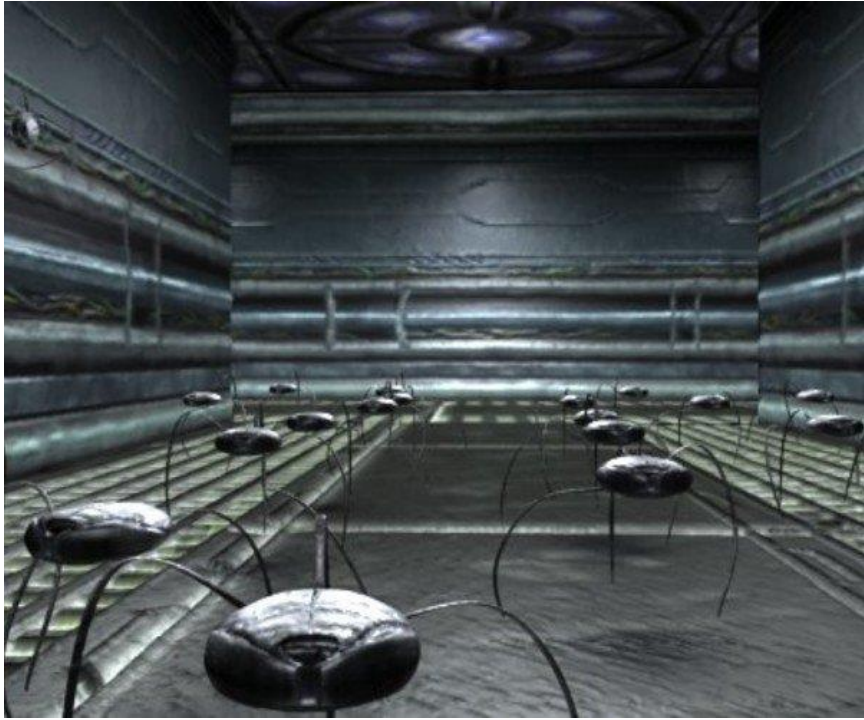
**across**LEGAL  
*be unstoppable*



MINORITY  
REPORT







Can I ?

May I ?

Should I ?

# Can I?

- Scientific and technological capacity or ability

# May I?

- Privacy laws
- Regulatory rules
- Employment law
- Product and Service Liability rules



# Should I?

- Accuracy
- Completeness
- Proportionality
- Non-bias
- Non-discrimination
- Transparency
- Accountability
- Privacy
- Inclusive
- Reliable

How should I ?

How may I ?

How can I ?

# How Should I?

- Testing
- Notification
- Registration
- Oversight
- Explainable
- Use restriction
- Security
- Minimisation
- Time limitation
- User engagement

# How May I?

- Compliance by design → Embedding legal norms (and flexibilities) into design specifications
  - Privacy
  - Regulatory
  - Employment
  - Product and Service Liability

# How Can I?

- Establish and implement Ethical and Legal design specifications
- E.G:
  - Notifications and consents
  - Anonimisation and pseudonimisation
  - Security layers
  - Transparency and explainability measures

# Groups Call for Ethical Guidelines on Location-Tracking Tech

The Locus Charter asks companies to commit to 10 principles, including minimizing data collection and actively seeking consent from users.





**The Locus Charter proposes that wider, shared understanding of risks and solutions relating to uses of location data can improve standards of practice, and help protect individuals and the public interest. We hope the Charter can improve understanding of risk, so those can be managed, and the many benefits of geospatial technologies can be realized for individuals and societies.**

**“Locus” is the Latin word for “place.”**

## FOUNDING PRINCIPLES

#1

### REALIZE OPPORTUNITIES:

Location data offers many social and economic benefits, and these opportunities should be realized responsibly.

#2

### UNDERSTAND IMPACTS:

Users of location data have responsibility to understand the potential effects of their uses of data, including knowing who (individuals and groups) and what could be affected, and how. That understanding should be used to make informed and proportionate decisions, and to minimize negative impacts.

#3

### DO NO HARM:

Physical proximity amplifies the potential harms that can befall people, flora and fauna. Data users should ensure that the individual or collective location data pertaining to all species should not be used to discriminate, exploit or harm. Rights established in the physical world must be protected in digital contexts and interactions.

#4

### PROTECT THE VULNERABLE:

Vulnerable people and places can be disproportionately harmed by the misuses of location data, and may lack the capacity to protect themselves. In these contexts, data users should take additional care, act proportionately, and positively avoid causing harm.

#5

### ADDRESS BIAS:

Bias in the collection, use, and combination of location datasets can either remove affected groups from mapping that conveys rights or services, or amplify negative impacts of inclusion in a dataset. Therefore care should be taken to understand bias in the datasets and avoid discriminatory outcomes.

#6

### MINIMIZE INTRUSION:

Given the intimate and personal nature of location data, users should avoid unnecessary and intrusive examination of people's lives and the places they live in, that would undermine human dignity.

#7

### MINIMIZE DATA:

Most business and mission applications do not require the most invasive scale of location tracking available in order to provide the intended level of service. Users should comply with practices that adhere to the data minimization principle of using only the necessary personal data that is adequate, relevant and limited to the objective, including abstracting location data to the least invasive scale feasible for the application.

#8

### PROTECT PRIVACY:

Tracking the movement of individuals through space and time gives insights into the most intimate aspects of their lives. In the rare cases when aggregated and anonymized location data will not meet the specific business or mission need, location data that identifies individuals should be respected, protected, and used with informed consent where possible and proportionate.

#9

### PREVENT IDENTIFICATION OF INDIVIDUALS:

As an individual's mobile location data is situated within more and more geospatial context data, its anonymity erodes, measures should be put in place to prevent subsequent use of the data resulting in identification of individuals or their location.

#10

### PROVIDE ACCOUNTABILITY:

People who are represented in location data collected, combined and, used by organizations should be able to interrogate how it is collected and used in relation to them and their interests, and appeal those uses proportionate to levels of detail and potential for harms.



# Thank you

Malcolm Bain

Across Legal

[mbain@acrosslegal.com](mailto:mbain@acrosslegal.com)