

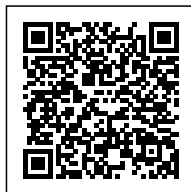
THE LEGAL CHALLENGE OF CONNECTING PEOPLE - TUENTI

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Social networks present new ways to communicate and connect but they also generate legal

issues not yet covered by regulation

Tuenti se ha convertido en la red social líder en lengua española. Actualmente cuenta con más de 10 millones de usuarios sólo en España. Los empleados que operan desde su sede de Madrid representan 17 nacionalidades diferentes y son una muestra de las ambiciones globales de la empresa y de sus esfuerzos por superar los retos de la competencia, afirma Oscar Casado Oliva.

Tuenti ("Tu entidad") has emerged as the leading Spanish-language social network and an online success story. Established by a US and a Spanish student in 2007 it now has over 10 million users in Spain alone and is one of the world's largest "invite-only" networks.

The employees operating from its Madrid headquarters represent 17 different nationalities and highlight the global ambitions of the company and its efforts to overcome the competitive challenges it faces, says Oscar Casado Oliva, the recently appointed General Counsel & Chief Privacy Officer (CPO).

"Our model is based on intimacy and the encouragement of closer relationships than those perhaps found elsewhere. New members have to be invited to join by existing members. This may mean less casual traffic but it gives longer profile engagement, which is more attractive to advertisers."

Madrid-based Tuenti has become one of the largest Spanish-language websites in the world despite its "closed" nature. Significant in its development has been a strict adherence to privacy and data protection rights, says Casado Oliva. As a Spanish entity it falls under the jurisdiction of the Agencia Española de Protección de Datos (Spanish Data Protection Agency - AEPD) and one of the strictest data protection regimes in Europe.

"The decision was made not to index users' data so it is not possible to 'find' people through a simple search. But an attraction of Tuenti is the ability to connect directly and not be inundated by unsolicited 'friendship' requests."

What is also important is the right to be forgotten, he says. Tuenti has no issues with deleting accounts. "A major function of the 42-member support team is to ensure that users adhere to our terms and conditions, which are inevitably informed by the legal regulation. Users have to be over 14 and accounts held by those younger than this are regularly brought to our attention."

The legal team has helped to negotiate a protocol with the AEPD to manage data protection concerns while Tuenti is also careful to monitor false profiles, all users must operate under their own names.

"Around 2,000 accounts are deleted each day. We have to look very carefully at profiles, pictures and other data in order to protect against identity theft, fraud and use by minors. In addition we have agreed a protocol with the Police as regards their ability to access our data, under judicial authority, which presents an increasingly significant investigative tool."

The company is also however now expanding its sphere of operations well beyond Spain and the web, says Casado Oliva. "Tu" is the company's recently launched mobile telephone platform, which is accessible by users on a contract or "pay-as-you-go" basis.

This is an extension of the web 2.0 concept which itself brings new legal challenges. Users' interaction with websites has meant significant analysis over the production, ownership and distribution of content, he says. "As the company expands and we move onto new platforms we face increased regulatory challenges over the management and control of the flow of information and data."

Tuenti's Spanish roots also however bring competitive issues, believes Casado Oliva. "From a user perspective it is good that your data is safe and minors are protected but the restrictions we face are not the same for other networks, especially those originating outside Europe."

From a regulatory perspective it has proved a challenge to adopt a one-size fits all approach,

especially as the EU's Data Protection Directive (95/46/EC) puts the focus on adhering to the jurisdiction in which the user sits, rather than where the provider is domiciled, he says.

"More broadly, the EU needs also to ensure that all rules are enforced equally for European and non-European providers, irrespective of their physical location. In order to strengthen the sustainability of the Directive, we believe it is necessary to ensure that it applies to both European and non-European providers whose online services explicitly target European consumers."

Operating in Spain and across the EU presents many more compliance demands than in the US, for example, and this presents Tuenti with certain disadvantages, says Casado Oliva. "Nonetheless we continue to expand internationally and across new platforms, with technologies that evolve much faster than the law. People want to connect but we believe in an increasingly controlled way."

Oscar Casado Oliva is General Counsel and Chief Privacy Officer (CPO) at Madrid-based Tuenti one of the world's largest "invite-only" social networks.

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