Conducting public health surveillance research on consumer product websites

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Background and Objectives

Background
• Marketing of harmful and potentially harmful products has been associated with important public health issues, including increased product usage
• Product websites are an emerging area for public health surveillance
• Terms of Service (TOS) governing access to product websites restrict access and website usage and may impede surveillance efforts

Objectives
• Describe what activities companies are prohibiting or restricting in their TOS contracts
• Outline ethical and legal implications of conducting research on websites in light of TOS

Methods

SAMPLE
• A sample of 14 top brands in domains relevant to public health (2 tobacco, 4 alcohol, 2 psychiatric pharmaceutical, 3 fast food, and 3 firearms) were identified using Statista, a “statistics portal for market data, market research, and market studies”
• Only brands whose TOS were governed by laws in the United States were included

PROCEDURE AND MEASURES
• TOS from each of the 14 identified websites were coded using line-by-line open coding
• Two secondary coders conducted confirmatory coding

Consequences for breaking or violating the TOS

Having the user’s IP address blocked so they could no longer access the website
Terminating login credentials
Deleting user content from the website

Bringing legal action against the user resulting in civil or criminal penalties

Main Findings

Having the user’s IP address blocked so they could no longer access the website

Table: TOS access restrictions

<table>
<thead>
<tr>
<th>Age restrictions</th>
<th>Legal age of product consumption</th>
</tr>
</thead>
<tbody>
<tr>
<td>Users are responsible for keeping login credentials accurate</td>
<td></td>
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<tr>
<td>Information required to create account must be accurate</td>
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</tr>
<tr>
<td>TOS can change at any time</td>
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</tr>
<tr>
<td>Website will post announcements when TOS change</td>
<td></td>
</tr>
<tr>
<td>Users are responsible for checking TOS changes</td>
<td></td>
</tr>
<tr>
<td>Users may not use website for unauthorized commercial use</td>
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</tbody>
</table>

TOS, written by corporate entities, restrict researcher access to tobacco websites and restrict activities necessary for research on other types of websites

• Many researchers may not be aware that legally, they could be sued for breach of contract for violating TOS, and are vulnerable to such legal challenges
• Universities may not be willing to support researchers in these efforts because knowingly violating TOS is illegal
• Some websites are not accessible to researchers because of registration requirements. While it is a violation of TOS to provide false information to register, providing false information to corporations (which are not persons) should not be considered deception and is ethically justifiable
• Research on product websites is necessary to inform marketing regulation that ultimately protects the public’s health, but TOS impose serious legal barriers. When faced with the decision to illegally violate TOS contracts or to not conduct important research, is it more unethical NOT to conduct such research?
• It is imperative that we identify and develop guidelines to protect researchers involved in surveillance of online commercial spaces

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References


