

The biggest lie, and how to stop it

By Pär Lannerö of CommonTerms.org. April 2015.

Today, almost nobody reads Terms & Condition online. They are too long and complex. We keep our fingers crossed and consent anyway, hoping for the best and lying about having read. This is the *biggest lie on the internet*.

As a consequence, those who write the fine print can hide whatever they want in there. They have little incentive to improve terms, and therefore we – the citizens of the internet – are poorly protected. We don't know what rules apply in the digital environments where we spend so much time, and often break them without knowing. Other, more careful individuals avoid digital services (reducing market size and widening the digital divide). A small minority spend hours reading legalese, but have little choice anyway. And the lack of standardization makes start-up companies spend scarce resources drafting their own terms.



Lying makes consent meaningless

These are just a few of the problems caused by the biggest lie.

What can be done about it?

The ability to make agreements is essential to human interaction. Even complex agreements need to exist. But I think a combination of efforts must be made to remove the need to lie when consenting to agreements online. The following figure outlines five categories of such efforts. The bottom 3 categories reduce the need to read contracts at the time of consent (virtually cutting out slices of fine print). The next makes reading more rewarding, and the top one makes reading easier.

| | | |
|----------------------------------|---|---|
| Make reading easier | | Plain language Education Standardize presentation (ordering, terminology, priority, symbols) Usable, accessible presentation |
| Empower users | | Negotiability Real choice Gamification? |
| Trust | 3rd party certification What do my friends accept? What does the crowd say? Do? | Automated term analysis Brand investment Individual expert advice Transparency |
| Time shift | Just-in-time consent Trial before consent Auto-consent via preference model | Recognize standard term packages Keep track of what I accepted before Tool to show only what's different |
| Mandatory user protection | | Business sector National / Regional Global / Continental |

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Figure 1: Many different efforts are needed to stop the biggest lie.

Figure 1 summarizes some of the most important conclusions¹ so far from the CommonTerms project. It has been significantly updated using insights gained at the *Meaningful Consent workshop #mcde2015*.

What we have done to stop the biggest lie

Since 2010, the CommonTerms project² has been trying to find ways to stop the biggest lie, by:

- Finding and learning from what other related projects have proposed and done³.
- Co-founding the OpenNotice⁴ group, as a meeting place (mailing list, teleconferences, meetups) for people who share the same concern.
- Spreading awareness of the problem, for example via the BiggestLie.com⁵ campaign.
- Studying existing Terms & Conditions documents in order to find recurring patterns.
- Drafting and testing a working prototype infrastructure for reusable common terms.

The CommonTerms infrastructure “beta”⁶ has the following three main components:

1. A public online database of reusable common terms, each with its own URL. The idea being that a crowdsourced and curated such database could become the natural source for “standard” term formulations, translated into several languages and jurisdictions.
2. A one-screen preview format for online contracts. The idea being that by standardizing such a format, it will be easier for users to get an overview of the most important aspects of online contracts. Aspects to standardize include categorization, ordering, formulation, icons, and a method for selecting what to present in a preview. Possibly, personalized highlighting could be achieved based on content in previously accepted contracts.
3. An easy tool with which website owners can generate a one-screen version of their contract. They select relevant terms from the database of common terms and – importantly – complement with important terms from their contract that aren’t already in the database. (This creates input needed by curators to keep the database relevant.)

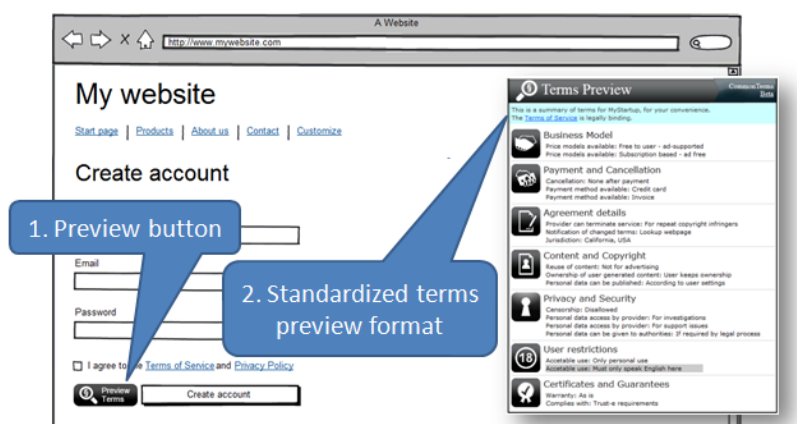


Figure 2: More meaningful consent with a standardized preview of terms

The CommonTerms infrastructure explores a handful of the areas described in figure 1. I am looking forward to keep exploring and realizing ways to stop the biggest lie together with the *Meaningful consent community!*

¹ A more detailed description will appear shortly at <http://commonterms.org/conclusions/>

² Coordinated by Metamatrix AB with funding from The Internet infrastructure foundation (Swedish cctld .SE)

³ <http://commonterms.org/Related.aspx>

⁴ <http://opennotice.org> - the maillist activity is currently low but it connects many insightful individuals

⁵ <http://biggestlie.com>

⁶ <http://commonterms.org/beta/>