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Roessler, B.

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Should personal data be a tradable good? On the moral limits of markets in privacy

BEATE ROESSLER

Behavioral targeting is valuable: a survey of nine of the top fifteen advertising networks “found that behaviourally-targeted advertising accounted for around 18% of total advertising revenue during 2009 (USD 595 million), cost 2.68 times as much as run-of-network advertising and was more than twice as effective at converting users who click on the advertisements into buyers – a 6.8% conversion versus the 2.8% conversion from run-of-network advertisements” (OECD 2013: 14). Examples like this abound and demonstrate that markets in personal data form one of the most lucrative markets in the world: the data concern every aspect of and every bit of information about personal lives, from health, shopping, news preferences, geographic data – this list could be continued almost endlessly. The Internet, and the market in private personal data, has become an essential part of our lives.

Concerns about what happens with these data and with the personal information they carry is a much discussed topic in contemporary theory and social criticism, and the dangers and risks have been pointed out in various ways: the consequences that the big data market might have for individuals and their privacy, their freedom and identity, but also for social relations and for the transformation of society in general (Turow 2011; Halpern 2013; Marwick 2013, Mayer-Schoenberger and Cukier 2013; Tanner 2014). Although the concept of privacy, its protection and its transformations stands central in many of these analyses, their concern can also focus on the transformation of social relationships (Marwick 2013; boyd 2014), on the idea of identity (Cohen 2012), on issues

I am very grateful to Robin Celikates, Susan James, Andrew Roberts, Valerie Steeves and to the participants at the NIAS workshop in January 2014 on the Social Dimensions of Privacy for comments and discussions. I am also deeply indebted to the detailed, critical and constructive comments by Christopher Parsons that helped me enormously to sharpen my arguments.

of justice and equality (Turow 2011), and on democratic political procedures (Lever 2012).

It is these analyses of the different invasions of our lives through the Internet that form the background for this contribution. I shall take up these criticisms, though I wish to pursue a slightly different direction. My starting point is that the trade in personal data poses not only a problem for individual privacy in its different social contexts, but is also a problem that concerns the possible transformation of social relations through the influence of markets more generally. These further-reaching consequences seem to have more to do with the marketization of personal data, and less to do with surveillance and other forms of invasion of privacy: that is why I approach the problem of the protection of privacy or personal data in the digital age through the question of what the market in personal data could mean to persons and their identities, to the flourishing of social relations as well as to social justice in a society. Personal data are collected, processed, mined, disseminated and sold, and are, thereby, treated as tradable goods. Therefore, my question is whether the ethical debate on the moral limits of markets can contribute to an understanding of the social and cultural consequences of markets in personal data. Why should there be limits to the commodification of information about our private lives?

Note that I do not think that this approach has to be understood as an alternative to existing approaches: in law, for instance, we have the idea that we need the informed consent of persons to what is happening to their data. We also have the rules – amongst others – of use and purpose limitation to what can be done with collected data, which already help to limit the market in data (Zuiderveen Borgesius 2014). In theories of privacy, we have critical approaches on the basis of personal control of access to data and the protection of autonomy and freedom (Allen 1988; Roessler 2005); or on the basis of the protection of the integrity of contexts (Nissenbaum 2010). Both the law and philosophical approaches to privacy provide us with good arguments for limiting the market in personal data. However, I want to argue for taking up the social-critical perspective of the moral limits of markets: only in this way, by drawing on the resources of this theoretical discourse, can we get into view the more general transformations and possible social pathologies that might follow from an unlimited market in personal data.

My assumption is that, as Sandel puts it, “the more markets extend their reach into noneconomic spheres of life, the more entangled they become with moral questions” (Sandel 2012: 88) and that it is worthwhile

investigating this entanglement when dealing with markets in personal data. Therefore, I shall draw on literature dealing not primarily with privacy problems but with the question of universal commodification, of turning every aspect of human life into a commodity. I shall do this by taking up three questions: the question of commodification more generally and what commodification of personal data could mean for persons and their agency; the moral question of social injustices as a consequence of markets; and, third, the ethical question of possible transformations of social relations through the logic of the market, thus of the possible consequences of these markets for our individual and social good life. It will become clear, I hope, that these three questions comprise the whole problematic of the possible moral limits of markets in personal data.¹

In what follows, I first discuss some problems regarding the notion of personal data and the idea of the neutrality of the market. In a second step, I explore in greater detail the critique of the neutrality of the market and theories of the moral limits of markets, with the three previously mentioned guiding perspectives: universal commodification and its consequences for individual agency; the market as (re)producing discrimination and inequality; and the consequences of universal marketization for our social and individual good lives, under the aspect of the possible alienation and reification of social relations. In my last step, I specify and deepen the understanding of the possible harmful consequences of market-based relations for our social life, as well as for the subjects themselves.

The idea I argue for in this contribution is that the consequences of the commodification of personal data and the market in these data can be detrimental for a society and for social relationships, and that the arguments that we find in debates on the moral limits of markets can be helpful in understanding this. I do not want to deny, though, the obvious positive effects this market has: it is convenient, helps people in their searches and in their purchases, enormously simplifies communication, and can generally help enrich people's lives. This is certainly right: but I am concerned here only with the negative effects these markets can have if they take possession of realms and contexts that are devalued by the very logic of the

¹ Note, however, that when I am discussing the moral limits of data *markets*, I am not at the same time writing about the moral limits for *governments* to collect and process data. I believe that the reasons for setting limits to data markets are different from the ones we have for setting limits to government surveillance – although one could make the case that collecting and trading personal data also constitutes a form of (consumer) surveillance (Cohen 2013; Richards 2013).

market. We shall see, though, that this does not necessarily mean that we could not consider ideas of “incomplete commodification” (Radin 1996; O’Callaghan 2013): personal data could play a meaningful role within friendships and other non-market relations, and yet, within limits, be treated as a commodity in a data market. This will become clearer in what follows.

Privacy, personal data and the neutrality of the market

“Personal data” can mean any information concerning the “personal or material circumstances” of an identified or identifiable individual, or a “data subject” in the discourse of law (see Wacks 1989, 2010: 110ff; Wacks).² Let me quote the definition given recently by the OECD Privacy guidelines:

[P]ersonal data ... is a broad concept, which includes, by way of example, the following types of personal data: User generated content, including blogs and commentary, photos and videos, etc. – Activity or behavioural data, including what people search for and look at on the Internet, what people buy online, how much and how they pay, etc. – Social data, including contacts and friends on social networking sites; – Locational data, including residential addresses, GPS and geo-location (e.g. from cellular mobile phones), IP address, etc. – Demographic data, including age, gender, race, income, sexual preferences, political affiliation, etc. – Identifying data of an official nature, including name, financial information and account numbers, health information, national health or social security numbers, police records, etc.

(OECD 2013: 7)

Thus, what we call personal data can originate from very different sources, and these may be data that are more or less “private” or sensitive from the point of view of the individual person herself. This sensitivity can vary depending on the contexts in which it is used as well as on the distance it has to what a person would call her personality (Wacks 2010: 111ff, 118). As we know, however, the question of whether there is something like a “biographical core” of data and the question of how one objectively determines sensitive data is contested (Millar 2009: 104ff; see also Nissenbaum 2010: 120ff). So, no matter whether the sensitivity of personal data should be dependent on contexts or conceptualized around a non-contextualized “core,” the idea of sensitivity illustrates the normative

² See also the Data Protection Directive 95/46/EC. Online: <http://eur-lex.europa.eu/LexUriServ/LexUriServ.do?uri=CELEX:31995L0046:EN:HTML>.

dimension of personal data and their protection comprising both a legal and a moral dimension. Yet from the perspective of the market, these differences are important only insofar as they put possible legal limits on data collection, analysis and trade. Apart from that, the market is largely interested in what it can learn about the person as a consumer and as a possibly interesting object of advertising.

When I speak of personal data as a tradable good, I mean exactly this sort of digitalized information, which is produced through the Internet and is collected, processed and so on by interested parties. During the last decade or so, personal data have been harnessed in order to develop a gigantic – “big” – data market: the amount of data stored in databases and the possibility of processing them through increasingly sophisticated means is almost incomprehensible, and the market in databases is one of the most profitable (Craig and Ludloff 2011; OECD 2013; for many examples see Marwick 2014; Tanner 2014). As Meyer-Schoenberger and Cukier explain, the value of such data is constantly rising as the cost of digital storage falls, as the means of processing become more precise and as targeting becomes increasingly specific and, therefore, increasingly profitable (Mayer-Schoenberger and Cukier 2013: 98ff). Accordingly, the economic value of personal data cannot be overestimated, and the quantification and monetization of personal information constitutes an economic value that will only increase in the future.

Now the question is, of course: what is wrong with a market in personal data? A market arranges the exchange of goods or services on the basis of self-interest and supply and demand, which determine the value/money for the goods in question. Markets are convenient and efficient, they coordinate behavior and a society without markets is hardly imaginable. However, doubts concerning the perfect neutrality of markets have been raised since their inception (Herzog 2013). Over the past few years, such doubts have been accentuated following the global financial crisis of 2008, which led even conservative critics to express some skepticism about the workings of financial markets. Of course, such concerns and broader concerns addressing the very idea of the neutrality of markets have prominently been taken up in the debates of moral philosophy for a long time. So what can we say about the harm that such markets can cause?

Three problems with markets in everything

One of the classic positions arguing for constraining the market sphere is that of Michael Walzer. In his book *Spheres of Justice* from 1983, he

developed the idea of complex equality based on different societal spheres as distributional realms that should be maintained and limited if justice is to be done. The meaning of the different societal goods – education, hard work, money, leisure time and so on – placed in the different spheres, is essential for the respective criteria of their distribution, and since the meanings vary widely, so too do the criteria for distribution. Walzer's theory forms the background for many contemporary critics of the market because of the idea of spheres – compartments – that should not be succumbed to the logic of markets, and because of the idea that goods might lose their meaning and significance for us, if they were commodified.³ However, as has been argued frequently, the mere reference to different spheres and alleged common understanding of meanings cannot explain precisely on which reasons the separation between the spheres should be grounded (Dworkin 1985; Radin 1996: 46ff; Satz 2010: 80f).

So let us look more closely at the limits of marketization with the help of the three questions I sketched earlier: the first one on the very idea of what commodification of personal data means for persons and their agency; the second question concerning the moral problem as to the possible *injustice* of markets; and the third one concerning the ethical problem of the possible consequences of markets in personal data for the individual and social good life.

Commodification, identity and agency

It does not seem wrong to diagnose a certain discontent in people when they are made aware of the fact that big companies such as Amazon, Facebook, Google and, of course, Acxiom not only collect their data, store and mine them but can also trade them or make them accessible to other firms. This form of collection and trade in personal data causes uneasiness and seems to constitute a harm that is not easy to analyze. This discontent does not seem to be reducible to violations of privacy; neither does it seem to be analyzable as a violation of property rights; and nor simply as an aversion to consumer surveillance. The discontent seems to be stronger than that and seems to be directed quite generally against the idea of a market in personal data: therefore, it appears reasonable to turn to theories of commodification in seeking explanations.

³ Walzer's position has been used not only in debates on the moral limits of markets, but also in privacy debates: Nissenbaum follows Walzer in her theory of informational contexts and (in)appropriate flows of personal information (Nissenbaum 2010: 166ff).

So the first question about markets in everything concerns the very idea of a commodity and of commodification. Commodification means turning something into a commodity in order to exchange it on a market, where that “something” is usually regarded as an object that should not be so commodified (Ertman and Williams 2005). One of the most influential theories of commodification is Radin’s. She sets out four criteria (“indicia”, Radin 1996: 118) to define commodification (see also Lukes 2004: 62f): in order for something to count as a commodity, it has to be objectified, functional, fully interchangeable with other commodities and obtain a value ascription on a value scale, on the scale of money. Objects can be commodified, but so can relations – when we try to “buy” a friend – and, more generally, practices such as donating blood (Titmuss 1971, Singer 1973: 314; Sandel 2012: 126).

This is still a rather general concept of commodification, but it can already serve to clarify a first critical step. According to critics of the market, not everything people value qualifies as saleable: part of the reason why we do value some things and relationships is precisely, as was already made clear by Walzer, that they are not fit to be traded in a market, or to be assigned a value in terms of money. As an object to be bought or traded for money, they lose their value, they become “corrupted” for us (Lukes 2004: 63; Sandel 2012: 93ff, following Walzer).

But what sort of commodity is personal data? First, in order to be understood as a commodity, the data has to be seen as a set of independent objects, independent of the person and her social relations, as Radin argues (Radin 1996: 6; Satz 2010: 189ff; A. Phillips 2013: 107f). No matter how “personal” they are (information about your shopping or your postings on social media), the data have to be commodified as separate from the person and have to be, following Radin, objectified, functional, fully interchangeable and, of course, purchasable for money. However, personal data seem to be an odd good: while money is made with personal data, the person whose data are sold is not the one who receives the money (Morozov 2014), unlike the person who puts on sale her kidney. Although *prima facie* personal data (“belonging to a person”) seem to have structural analogies with organs, which also “belong” to a person (Satz 2010: 189ff; A. Phillips 2013: 97ff), it does not really help here to refer to the debate on organ selling that figures so prominently in the debates on the moral limits of markets. The person who has bought my kidney is no longer interested in my whereabouts, whereas the company that has my personal data in its possession is at least interested in me as reidentifiable, traceable, as a bundle of data, as a potential buyer of something.

Of course, not all personal data qualify to be traded in a market. The rationale under which the data is collected is also important, insofar as the degree of identification can vary, significantly, between me as an individual person, as an individual cookie number, as a member of a specific population, and so forth. Moreover, data are not necessarily collected to sell – they can be purchased, for instance, for research purposes, the intention of which is not advertising. However, even in these more benevolent situations, the data are purchased as some kind of a commodity, since to have these data made available to us, even for research purposes, we must buy them (as, for instance, if we want to do research on the Internet behavior of young people). In this context, the data is a commodity, but in a much weaker sense than when companies buy the data in order to make more money. This is where the idea of incomplete commodification comes in (Radin 1996: 102ff): the data in the social context of research is far less “completely” commodified than the data a network company buys in order to perfect their behavioral targeting. I shall come back to this point.

Furthermore – to move on in the discussion of why personal data are an odd commodity – I do not think that it helps to refer to the question of property and to maintain that personal data are owned by the person, as supposedly (as some theories suggest) kidneys are owned by a person. If we look at the debate concerning the possessability of data, which focuses on whether the corresponding rights have to be seen as property rights, or whether data protection rights have to be construed as civil rights (Zwick and Dholakia 2001; O’Callaghan 2013: 25ff), we can see that it does not really shed any light on the question of commodification and tradability as such. Even if they were my property, there could still be arguments for moral limits to markets in these data – just as there are moral norms to limit the market in organs, even though organs could be seen as being “owned” by the person they come from. I do not think it is reasonable to want to decide the question of tradability of personal data by defining them as property; moreover, I do not think it is very coherent to conceptualize data as property in the first place, but this is another matter.

It is helpful here to make a difference between sets of data, as we have seen above in the definition of personal data. Let us take the sets of data that are in a broad sense connected to the intentions and self-chosen activities of the persons concerned:

user generated content including blogs and commentary, photos and videos, etc. – Activity or behavioural data, including what people search

for and look at on the Internet, what people buy online, how much and how they pay, etc. – Social data, including contacts and friends on social networking sites; – Locational data, including residential addresses, GPS and geo-location (e.g. from cellular mobile phones), IP address.

(OECD 2013: 7)

In thinking about commodification, starting with only these sets of data makes sense because it is these data that people probably think most clearly “belong to the person,” and in a different sense than, for instance, the color of their eyes, or identifying data of an official nature. We could then say that personal data are to be understood as belonging to a person in the specific sense that they – voluntarily or non-voluntarily – express her identity and personality rather directly, in different contexts and dimensions of her life, and in different ways. Other sets of data – which are conceived of as more remote from what the person would consider her identity – could then be seen to be commodified in a less problematic way. When data from the more identity-related sets are taken into a completely different context from the one in which they were communicated, when they are commodified and commercialized, when they are strategically used to invite me or entice me to make purchases, then the discontent with commodification seems to have good reasons.

Critique of this commodification of personal data should therefore be linked to the most fundamental arguments against universal commodification. Walzer is right in pointing out the detrimental consequences the transgression of spheres can have – and the discontent I mentioned in the beginning is certainly at least partly explained by this illegitimate change of spheres. But we can say even more than that. The reason why commodifying and commercializing data that were supposed to belong to and stay in the sphere of social relations is harmful is because it ultimately hinders and distorts my autonomy and identity: by being manipulated into a certain commercialized behavior, being forced to adopt a view on myself and on my social relations that is motivated not by friendship but by the market, and therefore not self-determined, or determined through the norms of the social context.

For Radin, the argument against total commodification ultimately rests on anthropological considerations, since commodifying or commercializing friendship or family relations, for instance, would “do violence to our deepest understanding of what it is to be human” (Radin 1996: 56). We can apply this to commodifying personal data, although it might be even more plausible to articulate the critique of

commodification in terms of social freedom, autonomy or individual agency in different social contexts. In both approaches, however, the commodification of personal data can affect the constitution of identity and personality of people in a most fundamental way. I shall return to these problems and to the consequences this form of commodification can have for the subject's agency, identity and her social relations in more detail in the following sections.

Markets discriminate and are unfair

Let us now have a look at the second question, the moral problem of the possible unjust consequences of markets. Theories of market neutrality argue typically that markets are neutral because everybody enters the market as equal and if the market works as it should, no instance of *unfair* inequality can result from the exchanges. However, this has been disputed from different perspectives, some of which are central to the critique of a market in personal data. Let me first review some of the arguments (Radin and Sunder 2005; Satz 2010: 15–38).

Markets are a potential source for inequality and discrimination; therefore some markets – “noxious markets” – are harmful and unjust: this is what Satz argues in her seminal study of the moral limits of markets (Satz 2010: 81, 91ff). She develops four parameters to evaluate markets: if market participants have “very weak or highly asymmetric knowledge and agency”, and/or if the market “reflect[s] the underlying extreme vulnerabilities of one of the transacting parties”, and/or if the markets produce “extremely harmful outcomes,” for either the individual or the society, then, Satz argues, the market has to be criticized as being damaging and morally wrong. She is primarily interested in the effects of markets on the equal standing of the participants in the market and in society at large, in the impact of markets on justice and equality in a society.

Satz describes and analyzes many examples of markets *producing* inequality through exploiting weak agency and through exploiting the vulnerability of the parties involved (Satz 2010: 115ff). These markets have noxious results because they produce and consequently reinforce detrimental forms of inequality and power imparities. However, markets also *reproduce* inequalities and discrimination against persons or groups of persons: people do not enter the market as equals and the inequality is exacerbated through market transfers. Lukes, too, cites a large number of examples of cases where market forces aggravate the position of the poorer market participants, who enter the market with fewer resources

(Lukes 2004: 71f) and are pushed into an increasingly bad social situation by market forces.

If we apply these arguments to the market in personal data, we can see that this market can easily produce detrimental inequalities: it is precisely one of the goals of online advertisers to treat people differently in order to get more “hits” and make more profit. Turow discusses many instances of social sorting and discrimination in the market of personal data on the basis of age, gender and income. Roberts, too, provides examples that demonstrate that the trade in personal data can have discriminatory and unjust consequences for the data subjects (Turow 2011: 88ff; Cohen 2013; Richards 2013; Marwick 2014; Roberts 2015). We know that companies generate customer’s profiles on the basis of their former purchases, and also, far more precisely, on the basis of information purchased through big data companies, hence on the basis of the person’s all-round Internet behavior. In this way it is possible to mine the data for patterns and to use the patterns for predictive analytics, producing more and more precisely personalized customer profiles. Because of these profiles, customers receive, for instance, very different and differently attractive offers from companies without their being aware that the offers are personalized to their overall financial, social, private situation. As Turow argues in an interview:

I’m concerned about ... social discrimination ... In an everyday world where companies are deciding [how] I’m targeted, making up pictures about me, I’m getting different ads and different discounts and different maps of even where I might sit in an airplane based on what they think about me. In the future ... you might be placed into “reputation silos” by advertisers, who will then market products to you accordingly.

(Turow 2012)

In the same line, Marwick characterizes the practice of Acxiom: “An Acxiom presentation ... in 2013 placed customers into ‘customer value segments’ and noted while the top 30 percent of customers add 500 percent of value, the bottom 20 percent actually cost 400 percent of the value. In other words, it behooves companies to shower their top customers with attention while ignoring the bottom 20 percent” (Marwick 2014: 24). Promising clients are “targets”; consumers with a financially and socially less attractive profile are “waste” (Turow 2011).

Even apart from the manipulative aspects that this form of targeting, profiling and predicting consumer’s behavior manifests (and to which I will return below), what interests me in this section is the discriminatory effects these markets can have for people and social groups on the basis

of their overall social situation. We know from history and experience that increasing social injustices can have destabilizing effects on societies; therefore, to trace out this line a little, the market in personal data can not only have detrimental consequences for individual persons, but also for society at large (see Satz 2010: 95).

Different forms of social action: system and lifeworld

Let us now have a look at the third question: the possible consequences of a market in personal data and its non-neutrality as an ethical problem, as a problem for the way we live together well. A powerful argument against the neutrality of markets can be found in Habermas' theory of communicative action: it is in this *opus magnum* where Habermas develops the distinction between system and lifeworld. He argues that a society can only reasonably be said to be integrated – to keep up its social order in a reasoned and democratic way – and to reproduce itself in ways that are constitutive of a rational, democratic society and flourishing individual personalities, if it comprises these two very different “action orientations” of system and lifeworld and upholds the difference between the two (Habermas 1987: 113ff; Celikates and Pollmann 2006; Cooke and Juetten 2013). Let me briefly illustrate again why it can be helpful to refer to Habermas:

Websites, advertisers, and a panoply of other companies are continuously assessing the activities, intentions, and backgrounds of virtually everyone online; even our social relationships and comments are being carefully and continuously analyzed ... *Over the next few decades, the business logic that drives these tailored activities will transform the way we see ourselves, those around us, and the world at large.*

(Turow 2011: 3, my emphasis)

The business logic driving activities where no business logic should be working – this is precisely Habermas' point in the idea of the colonization of the lifeworld through the system.

Lifeworld is the concept for the realm of actions oriented toward understanding: it forms the background for agents who are always already situated and contextualized in a lifeworld's culture and tradition (Habermas 1987: 113ff). Essential for the lifeworld is the first person perspective: the hermeneutic participants' perspective that subjects take up and share, communicating with one another with the shared goal of mutual understanding. Thus the lifeworld comprises those realms of

modern societies that cannot be reduced in their modes of interaction to instrumental rationality and to strategic, instrumental action oriented towards goals, success and/or profits. The constitutive task of the lifeworld is the “symbolic reproduction” – the socialization of individual personalities, the cultural transmission between the generations and the social integration. It is these aspects of human life that are grounded in and expressed through communicative action (Habermas 1987: 141ff). Without these characteristic modes of action, a society cannot preserve its culture, socialize healthy personalities or take care of the different forms of social integration.

System, on the other hand, refers to those mechanisms of a society that comprise their material reproduction: in modern capitalist societies these are basically the systems of economy and of the state bureaucracy, with their steering mechanisms of money and power. The system enables a purely functional coordination between agents through influencing the consequences of their actions, uncoupled from the orientations and intentions of the individual agents. The system thus operates in its action-coordination purely instrumentally and is not dependent on the understanding of the first person perspective. But it is important to realize that the functioning of the system is itself dependent on the “always already” of the communicative background conditions of the lifeworld and its different forms of symbolic reproduction.

In itself, Habermas argues, nothing is wrong with the separation: the system and the lifeworld each fulfill different tasks within a society and each is necessary for societal integration. Furthermore, of course, in the lifeworld we are always also involved in strategic (system-)action: in work, for instance, or in our role as consumers, we necessarily have to have two different action orientations. However, this does not preclude the lifeworld from fulfilling its central tasks, which are built around communicative action. So we should not see the lifeworld and the system as two completely different separate spheres, but rather as two different action orientations, oriented towards different goals and forms of understanding.

Habermas argues not so much for the moral limits of the market as for the possibility of properly functioning social integration, of cultural reproduction and of the enabling conditions of socializations of healthy personalities. However, these conditions – and this is one of his central arguments – are violated or damaged when the market tries to take over the action coordination of social relations in the lifeworld: think, for instance, of universities following exclusively economic

imperatives, thereby endangering the very idea of education. In this way, Habermas analyzes different forms of crisis and pathologies that are generated by various forms of “border violations” between system and lifeworld (Habermas 1987: 374ff). Problems arise when the system and its logic encroaches upon the communicative aspects of the lifeworld: the system-imperatives of the economy and the administration infiltrate and permeate dimensions and areas of the lifeworld that previously had been integrated through communicative action. The imperatives of material reproduction force the subjects to replace their communicative action orientation with the use of only their strategic reason: the communicative practices of the lifeworld run the risk of being replaced by strategic behavior. So even if we need strategic actions in contexts of the lifeworld, its core tasks, if they are to be preserved, will still have to be fulfilled as communicative actions.

Let me focus on the question of how Habermas’ theory could be made fruitful for the problem of the tradability of personal data. Habermas uses the concept “colonization of the lifeworld” to analyze and interpret the phenomenon of markets taking over important functions in and of the lifeworld, thereby not only influencing, but possibly transforming culture, social relations and personal identities. It is the notion of the colonization of the lifeworld that can be used to analyze the encroachment of the market in personal data, of the market of advertisements on the social relations of private life. The subjects are encouraged to see each other as “customer,” each getting (different) adverts, each being attracted into different purchases, but all of them forced to be oriented – maybe involuntarily – towards profit, instead of being oriented to mutual understanding between friends. Habermas’ distinction between societal integration through systems on the one hand and through norms and values on the other hand enables us to conceptualize harmful and damaging commodifications as the “reification of relations,” as leading to alienation (Habermas 1987: 118). For Habermas, reification threatens when “strategic, ‘observing’ (beobachtende) modes of behaviour” take over precisely those social spheres or contexts for which communicative orientations are constitutive (Honneth 2005: 55). What we lose in losing these functions of the lifeworld is an ethical loss, a way of living well: if we are forced to act strategically in those contexts of the lifeworld that are meant only for communicative understanding, then the very function of the lifeworld is endangered, with the social life and social relations losing their power of cultural reproduction and socializing healthy personalities (Habermas 1987: 332ff; Celikates and Pollmann 2006).

This is, therefore, how Turow's thesis should be argued for: the concerns that the market in personal data is transforming our social world, that business logic is taking over from the logic of mutual understanding, is a worry about the system forcing its logic on the lifeworld. Marketization contradicts the form and function of the social relationships in the lifeworld, thereby running the risk of drying up the very sources necessary for the integration of societies.

Quantified relations and quantified selves

In the previous section I reviewed three different perspectives on the limitation of markets in general and specifically of markets in personal data: the question of the commodification of everything, the question of social injustices as a consequence of markets and the question of possible transformations of social relations through the logic of markets. In the following, I shall come back to these arguments and reasons against the neutrality of markets in order to further deepen the understanding of the effect of markets on our social life.

It is usually the predictable consumer as object that serves as the point of reference for market transactions. In this sense, the industry of data-based marketing endangers and threatens individual agency – subjects are not understood as agents but as perfectly predictable data objects. Of course, consumers' data can be mined with very different goals, not solely for improving behavioral targeting. But when we focus on the goal of using a profile to entice a person to purchase specific goods, then it is probable that the more precise the profiles, based on millions of personal data, the more predictable and susceptible to manipulation the subject becomes. Let me come back in more detail to the question of friendships and social relations on the social media: of course we should allow for the fact that people have very different relationships called "friends" on social media. But at least a section of these relationships are conceived of by the subject as friendships or intimate relationships, such as families, belonging, as Habermas puts it, to the lifeworld. I have already argued in the previous section that these relations can change when the subjects are pushed to see themselves primarily as data objects and no longer as subjects in relations: since personal data that are collected through social media are useful and valuable for any data broker and are thus commodified, the relationship between the subject and her friends on social media might be transformed. As Steeves argues, we have to "better understand how commercial mining of the social world restructures social relationships

and restricts the kinds of identity performances available to young people online ... The detailed individual profiles that result enable marketers to integrate mediatized messages into children's social environment, through behavioural targeting and "natural" or immersive advertising" (Steeves 2015). This analysis obviously applies not only to children and young adults. From the perspective of the interests of the data market, I am driven to view the information I share with my friends no longer as intimate communication "oriented towards understanding" but as yet another item to be used by companies to send yet another advert to, to strategically suggest to me to go for yet another "hit." This is a change in perspective from the first person participant to the third person perspective of the observer and precisely the shift from communicative to strategic action that we saw being analyzed and criticized in Habermas' theory. Of course, this does not always have to happen: persons will not always understand one another through this third-party lens; they might even engage in subversive practices, trying to undermine market logics. However, the possibility of the transformation of these social practices has to be diagnosed as such if we want to take seriously what I referred to earlier on as "discontent."

Thus one aspect here is the change in the meaning of the relationship if it is predominantly seen as a relation between data subjects; as Marwick has also pointed out, the sheer struggle for "status" on social media can entail the commodification of personal information, thus changing and harming the meaning of the relationship (Marwick 2013; see also Kennett and Matthews 2008; Fuchs *et al.* 2012). Again, I want to point out that we do not have to assume that these pieces of personal information are completely commodified: even incomplete commodification can form a threat to the communicative functions of these social relations. That this process and development should have consequences for a person's own idea of differences in self-presentations in different relations, and therefore for a person's identity and personality, is not surprising. I therefore want to go one step further and have a look at what the market in personal data could mean for the identity and self-relation of the subject.

"Self-knowledge through numbers" is the advertising motto of the Quantifiedself-movement. On their website (<http://quantifiedself.com>) you find everything about self-tracking: measuring, noting, registering and putting down all of your activities 24/7. The Apps⁴ you are supposed to use are mostly available free of charge and the data you collect can not

⁴ For many examples of Apps, see Lupton 2014; Till 2014.

only be shared with the group of friends in your quantified self group, but also with companies and data brokers. As Laura Phillips writes:

Fitbit, for example, allows us to record and monitor our physical activity as part of a health and wellness regime, in the process collecting contextual information about calories expended and food consumed. This allows Fitbit to create new business models, selling this information to insurance companies to help them better understand the actual and potential behaviour of their customers and thus better calculate risks.

(L. Phillips 2014)

On the one hand, this form of self-observation stands in the long and venerable tradition of diaries and self-observation (Passig 2012). Not every tracking of one's own personal data constitutes the distancing of the subjects from themselves in a harmful or inimical, damaging way. Self-observation, we know, can have very positive effects, individually and in social contexts, and not every self-tracker shares her data with the companies, or even with friends. However, the reasons why we could understand the self-tracking and objectification of the self as possibly having alienating effects and as yet another form of commodification is, first, that the perspective on the person herself can be changing because she is turning into an observer of her own behavior, and is not any longer the acting subject as the first person (Lupton 2013, 2014). The idea of self-knowledge, then, is prone to degenerate from the imperative "know thyself" into knowledge of numbers about oneself as a moving object: "self-knowledge through numbers."

Second, the collection of data about oneself can go hand in hand with the data being collected, mined and sold (prominently in the case of health data), as we have seen in the Fitbit example and can observe in many more examples (Lupton 2013, 2014). Honneth, in his theory of reification, characterizes reified social relations as violating ethical principles in not respecting the other person in her individuality. Instead, the other persons are seen "as 'things' or 'commodities'" (Honneth 2005: 19). He subsequently applies this idea to the relation of the subject to herself, the self-reification (*Selbstverdinglichung*) which the subject cannot escape if and because the social relations in which she finds herself are commodified in the way described (Honneth 2005: 78ff). Marwick, who also criticizes "self-commodification," suggests a similar argument in her chapter on *Lifestreaming* (Marwick 2013: 117, 205ff): the digital self assumes that everything she does is translatable into data that consequently demonstrate to her who she "really" is. This supports my argument that a market

in these data can have detrimental effects in changing the perspective on ourselves, the meaning we give to self-knowledge and, therefore, to agency and autonomy. Even if we should be cautious not to exaggerate the threats that lie in the as yet incomplete commodification of our personal data, it certainly is right to point out wrong directions.

Let me conclude: my intention in this contribution was to approach the problem of the protection of privacy or personal data in the digital age through the question of what the market in personal data could mean to persons and their identities, to the flourishing of social relations as well as to social justice in a society. And I hope to have demonstrated that reference to debates on the neutrality of markets and their moral limits provide us with substantial arguments that help to protect the personal data of individuals in their different social contexts. I have already pointed out in the introduction that the critique of the commodification of personal data does not necessarily mean that we could not consider ideas of “incomplete commodification” (Radin 1996; O’Callaghan 2013): personal data could play a meaningful role in friendships and other non-market practices and relations, and yet, within limits, be treated as a commodity in a data market. Other examples of incomplete commodification demonstrate the possibility of having both, an object or relationship that is commodified while at the same time being meaningful. Consider work: work is a commodity, but can also be meaningful and autonomous for the person herself, and as a practice (Radin 1996: 105). Consider books: they clearly are a commodity, but they are perfectly meaningful objects at the same time. Radin suggests viewing commodification on a continuum between two endpoints: the complete commodification of an object and its complete non-commodification. Incomplete commodification of personal data would then take up a middle position on this continuum.

Note, however, that we have different ways to conceptualize this incompleteness: in Radin, the commodified and non-commodified meaning of an object can peacefully coexist, making its meaning incompletely commodified (think of work, again). With personal data, we should conceive of incomplete commodification in a different way: we should conceive of some data being easily commodified, with other sets of data resisting commodification (as I in fact have argued in the above sections). We could also make a difference between contexts: in some contexts, for instance on social media, commodification or commercialization is clearly more tenuous than in other contexts.

So what can we learn from the debate on the moral limits of markets? The perspective from the market in personal data demonstrates the need for moral norms that are not primarily based on individual consent and control of privacy violations, or, for that matter, on the idea of contextual integrity of information flows, but that take into account how the market in personal data can transform our social lives in ways that are harmful, detrimental or injurious. This moral and ethical dimension of the consequences of the marketization of personal data can only be captured when we take up the perspective of the moral limits of markets. Personal or private data are de facto a tradable good; and even if these norms do not tell us where precisely to stop with commodification, the task for ethics and political theory is to criticize tradability if it becomes harmful and dangerous for people and their social relations. The norms that guide the limitation of a market in personal data are necessary if we want to hold on to the idea of a flourishing and well-lived social life.

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