The Right to be Forgotten and Personal Data Protection: A Legal Analysis from the Evidence

Gabriela Yuseff Valenzuela

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RESEARCH QUESTIONS

- The mass use of the internet has produced a never before seen availability, accessibility and permanence of information.

- How to demand that search engines de-index certain links of the results they produce, and how this could affect other fundamental rights, such as freedom of expression, access to information, the exercise of journalism and historical research.

- This research seeks to raise evidence regarding the consequences of this regulatory figure in the ecosystem of internet, through the statistics of applications for de-indexing in Europe.
A BIT OF CONTEXT
Five years have passed since the European Court of Justice ruled the controversial Costeja Case, which established the responsibility of search engines for the databases and established the possibility of canceling the availability of certain results at the request of the data subjects.

What we know today as "right to be forgotten".
SHARE ENGINE MARKET WORLDWIDE 2009 – 2019

- Google: 91.10%
- Bing: 3.15%
- Yahoo: 3.13%
- Baidu: 0.75%
- Yandex Ru: 0.35%
- Otros: 0.36%
METHODOLOGY
METHODOLOGY

- Of the six search engines with the greatest presence on the Internet, Google dominates the search engine market by over 90%.

- Review the statistics of de-indexation requests presented.

- Of all the search engines only Google, Bing and Yahoo have at their disposal forms to request the de-indexing of content at European level. Regarding the transparency of these applications and their results, only Google and Bing have public statistics regarding the applications received and their acceptance or rejection.
FINDINGS
### Requests received between May 29th 2014 – May 29th 2019

<table>
<thead>
<tr>
<th>Removal requests</th>
<th>URLs included in removal requests</th>
</tr>
</thead>
<tbody>
<tr>
<td>808,568</td>
<td>3,156,421</td>
</tr>
</tbody>
</table>

#### Number and percentage of requests deleted and not deleted May 29th 2014 – May 29th 2019

- **Cantidad de URL eliminadas**: 1,506,372; 55%
- **Cantidad de URL no eliminadas**: 1,212,839; 45%
Requests received between May 2014 – June 2018

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<td>78,781</td>
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Number and percentage of requests deleted and not deleted May 2014 – June 2018

- 32,725; 42%
- 46,056; 58%

- Cantidad de URL eliminadas
- Cantidad de URL no eliminadas
FINDINGS

- From 808,568 total requests received by Google (3,156,421 URLs requested) and 26,729 total requests received by Bing (78,781 URLs requested):
  - A total of 1,245,564 requested URLs were accepted.
  - On the other hand, 1,552,428 URLs were rejected.
  - The rate of acceptance of applications for de-indexing is approximately 43%.
  - Broad interpretation of the causes of de-indexing by search engines?
CONSTITUTIONAL ACTIONS

- Evolution of the criteria to access the de-indexation. Cases:

1. Former prosecutor Abbot (2012)
2. El Mercurio newspaper (2016)
CONTACT

gabriela.yuseff@ug.uchile.cl
gyuseff@carey.cl