

## **Geofencing as a Marketing Tool (June 2020)**

You're walking down the street when you get a ping from your cellphone. It turns out you just got a coupon from Starbucks which, coincidentally, you just passed.

This is a form of marketing called geofencing, the virtual bracketing of a specific area with the goal of collecting data from either GPS systems or RFID (radio-frequency identification). This is all made possible through location data from location services on cellphones. Geofencing is a very attractive marketing technique for many businesses because it allows marketers to advertise to potential customers who visit specific areas. Many consumers also love the convenience of receiving advertisements or offers to businesses that are close by.

### **Considerations for the workplace**

Geofencing is being used widely in business in a number of different ways. Based on our research, some businesses are developing best practices as they use geofencing. Here is what we found.

First, it is worth considering how long data collected from a geofencing campaign will be stored. Will it be more than a day? A month? Europe has laws that limit collection of data storage through location services, and California has a law that went into effect in January 2020 to do the same. The goal of both laws is to cut down on perceived privacy violations from the marketing practice.

The data storage time frame is just one decision to take into consideration. Another important decision businesses have to make is determining who to solicit. The general consensus on how to determine this appears to be through an opt-in system. An opt-in system means customers can tell businesses they are OK with their location data being used.

Some businesses are only using geofencing to target ads through social media like Instagram or Twitter. This eliminates notifications altogether and could be less intrusive to the customer.

Many companies are working hard to be fully transparent with consumers about their use of geofencing. The opt-in option explained above is one way to do that. Another way is to be specific when ads come to the prospective customer. Businesses can remind consumers that they are receiving notifications because of their expressed interest in these types of notifications or ads.

### **Ethical Dilemmas in geofencing**

Not surprisingly, the practice can be very controversial and can bring up ethical dilemmas, even among marketing professionals that MBA Research has heard from in focus groups across the country.

While receiving a discount coupon to a favorite store may be seen as a bonus to many consumers, getting an ad for a personal injury lawyer while you're in an emergency room may feel a little too personal, and a little less comfortable. This was the topic of a story featured on [NPR in 2018](#). The marketing agency behind the ads claimed the goal was to make it easier for patients to find services they may need. An attorney in the story noted that, as of now, the federal government does not have any laws that regulate this type of advertising in hospitals and would not violate medical privacy laws like HIPPA. Patients, however, felt as if they were being spied on.

And, the [American Bar Association](#) wrote about a court case involving Monsanto, the manufacturer of the herbicide Round-Up. The complainants alleged the use of Round-Up gave them cancer. As a jury was being selected for a trial for the case, Monsanto purchased and sent ads to people who were inside the courthouse where the lawsuit was set to begin trial. The ads claimed Round-Up was a safe product to use. The people suing Monsanto in the case complained the geofenced ads were a form of jury tampering. The judge in the case disagreed. The judge ruled that the speech in the ads was protected and no different than people wearing buttons with political messages in the courtroom.

Through our research, we found that there is very little regulation related to where geofencing is applied and where businesses send their advertisements, like in a hospital or in a courthouse. In many ways, it may be up to consumers to manage their own privacy settings on their tech devices. But the question still remains: is it ethical to track and target people in a courtroom or a hospital emergency room even if it's not prohibited by law?

### **Classroom implications and questions for students**

- Consider a time when you think geofencing was used to target you with an ad or discount offer. Was this a positive or negative experience?
- Imagine that you own or are working for a business considering using geofencing. What types of laws would you consider to be fair for both businesses and consumers? Should laws be focused on limiting advertisements inside hospitals, like in the NPR story? Would they seek to limit the amount of information collected or not?
- Now consider geofencing from the consumer perspective. Do you think consumers have greater rights to privacy in certain situations versus others?

### **Links for further learning:**

MBA Research provides a LAP (Learning Activity Package) that provides insight on complying with the spirit *and* intent of laws. Access the LAP for free [here](#).

<https://www.mobilemarketer.com/news/burger-king-whopper-detour-mobile-marketer-awards/566224/>

<https://businesslawtoday.org/2019/03/power-place-geolocation-tracking-privacy/>

<https://www.businessnewsdaily.com/10627-geofencing-understand-customers.html>

<https://www.data-dynamix.com/the-basic-rules-for-geofencing-in-advertising/>