



Data Protection

The growing Media Spotlight (and why it is important to be prepared)

“Brand Impact” and “Negative Media Coverage” are often cited as drivers for Data Protection in organisations. Clippings of newspaper headlines inevitably feature in internal management briefings to raise awareness of the challenges and the risks. However anecdotes alone are no substitute for hard data about the trends in media coverage and specific recommendations for action. This paper contains a meta-analysis of Google search results for “data protection” and privacy in leading news websites since 2004. The results are a wake-up call to organisations that while specific issues may come and go, Data Protection as a media topic is here to stay

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Introduction

“Data Protection failures can damage your brand”. We’ve all heard this statement uttered countless times. It has almost become a bland “motherhood and apple pie” aphorism. While other studies have sought to quantify the bottom line impact of a breach of Data Protection principles most of these have focussed on the impact of breaches of data security. Of course, savvy Data Protection practitioners realise that there is more to Data Protection compliance to just keeping data safe and secure and failures in these other areas can also lead to brand damage and bottom line impacts.

This paper takes a different perspective. Rather than seeking to put numbers on the bottom line impact of a breach of Data Protection Principles we have sought to assess the scale to which the media landscape has changed and how this should affect how organisations should assess the risk and impact of any breach of Data Protection regulations.

The methodology for our analysis was to perform Google search queries within the website domains of the three leading Irish broadsheets, the Irish Times, Irish Independent, and Irish Examiner, (using the “site: domain.com” search term) and, for comparison, the Financial Times website.

One of the key psychological aspects of Risk management, whether it is the risk of Data Protection breaches or any other kind of risk, is that we tend to focus on and act more quickly on risks that are being talked about on a regular basis. Taking that as a starting point we performed a range of quantitative and qualitative analyses on the data to test our hypothesis that:

Media coverage of Data Protection Issues has become sufficiently main-stream and frequent that organisations should seek to ensure that they are prepared for inevitable media fall-out should they fail to meet the standard of care set out in the Data Protection Acts.

Or to put it another way:

Data Protection and Privacy are being talked about more in the daily news so the bulls-eye on the back of organisations that are not prepared is getting bigger.



Our findings are that:

1. Media coverage of Data Protection issues, as evidenced by Google search hits within specific web domains, has increased significantly since 2004 (the year after the enactment of the current Data Protection laws in Ireland).
2. Over that time media coverage has become more “Data Protection Aware” with articles raising specific and clear Data Protection issues, in particular in the last three years.
3. Some of the media outlets analysed have historically lagged behind in terms of coverage but are beginning to catch up with their peers.
4. The “bulls-eye” is getting bigger as media organisations become increasingly aware of Data Protection issues as a ‘valid’ news topic and seek to chase stories in this vein.

Our analysis is limited just to the on-line editions of the print media publications mentioned above. We have not looked at the footprint of Data Protection issues in Social Media channels such as Twitter. However we would suggest that the trend in increased coverage in the “mainstream” media owes much to coverage and comment in new media channels, as such the bulls-eye is likely to be greater still.

Analysis

Methodology

To compile the base data for this study a series of Google searches were performed using Google's advanced search tools. We selected three leading Irish broadsheet newspapers with on-line editions. We excluded newspapers whose websites with paywalls from the study (hence no statistics for the Sunday Times for example). We searched within the domain name of each publication for the terms ("Data Protection" AND "Privacy"). The search was performed multiple times to compile statistics for each site from January 1 to December 31 in the years 2004 to 2011.

We compiled quantitative statistics for all of the websites, counting the number of search results returned in each case. While this may result in results which have little or no direct relationship to the topic of Data Protection being returned in each year, a key assumption we made in our analysis was that the size of the potential population would result in any "red herrings" being normally distributed across each result set to the extent that any change in results returned would be more probably attributed to an increase in specific Data Protection coverage.

We also compiled comparative quantitative statistics comparing the results returned for month of January for the Irish Independent, Irish Times, and Irish Examiner since 2010.

We performed a qualitative analysis of headlines returned in each year. The methodology we applied to this analysis was to review the first ten results returned from Google in each of the years analysed for each of the newspapers we were looking at. Headlines and stories were then categorised by whether they related to Data Protection or not. Stories of celebrities seeking privacy for example were felt not to be "Data Protection linked" for the purpose of our analysis so were excluded.

The objective of this qualitative analysis was to determine if the nature of search results has changed between 2004 and 2011.

Findings

Snapshot Analysis

Coverage has more than doubled on average since 2010.

We conducted a year on year comparison on a snapshot of the past two years (2010 and 2011) to determine the extent, if any, of increased media coverage of Data Protection and Privacy issues between 2010 and 2011 in the four newspapers selected. We set 2010 as a benchmark year for future comparisons.

Our analysis shows that for all media outlets studied there has been an average 117% increase in hits for the search string (“Data Protection” and Privacy) between 2010 and 2011. The lowest increase in percentage terms was in the FT.com domain at 76%.

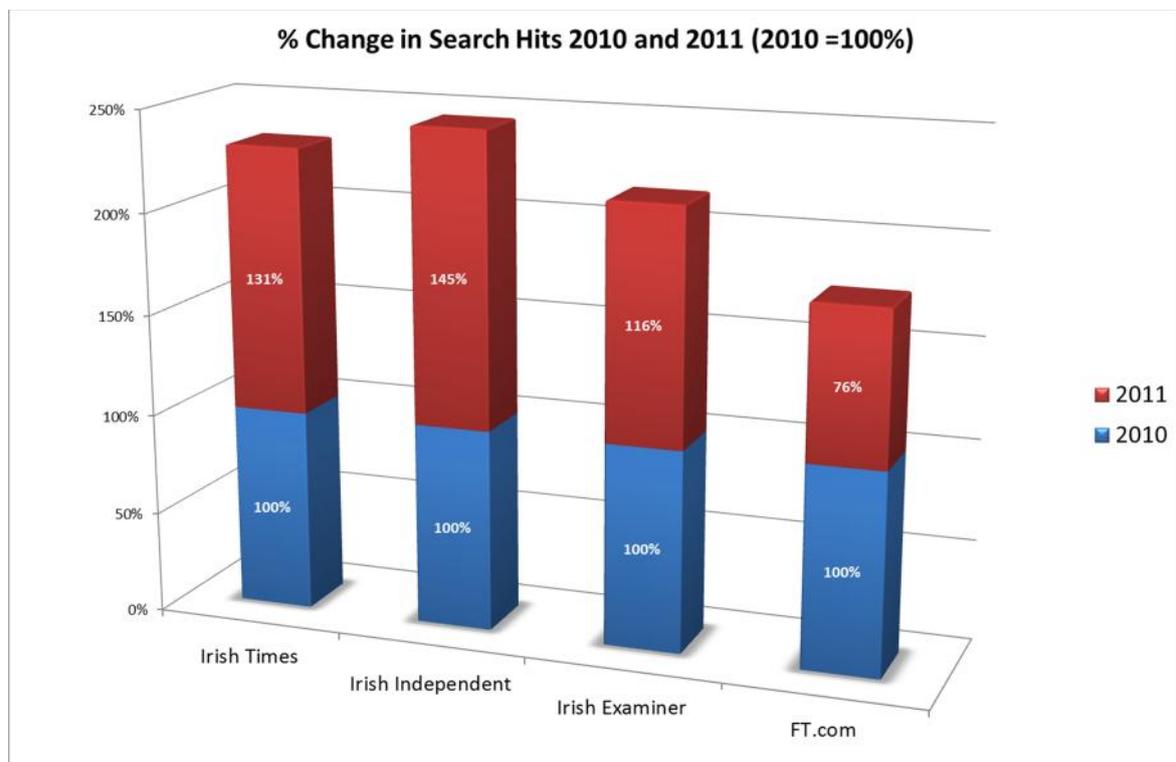


Figure 1: Percentage change in coverage 2010-2011 (average 117%)

Of course, the percentage change doesn't necessarily mean that there is a lot more coverage of the topic. A 131% shift from a baseline of five hits would still be less than seven stories. However the next graph illustrates how, by and large, the media are beginning to generate more content in this topic area. The appetite for more content from editors means

that, inevitably, there will be a push from journalists, op-ed writers, and other columnists to find the Data Protection angle in the news.

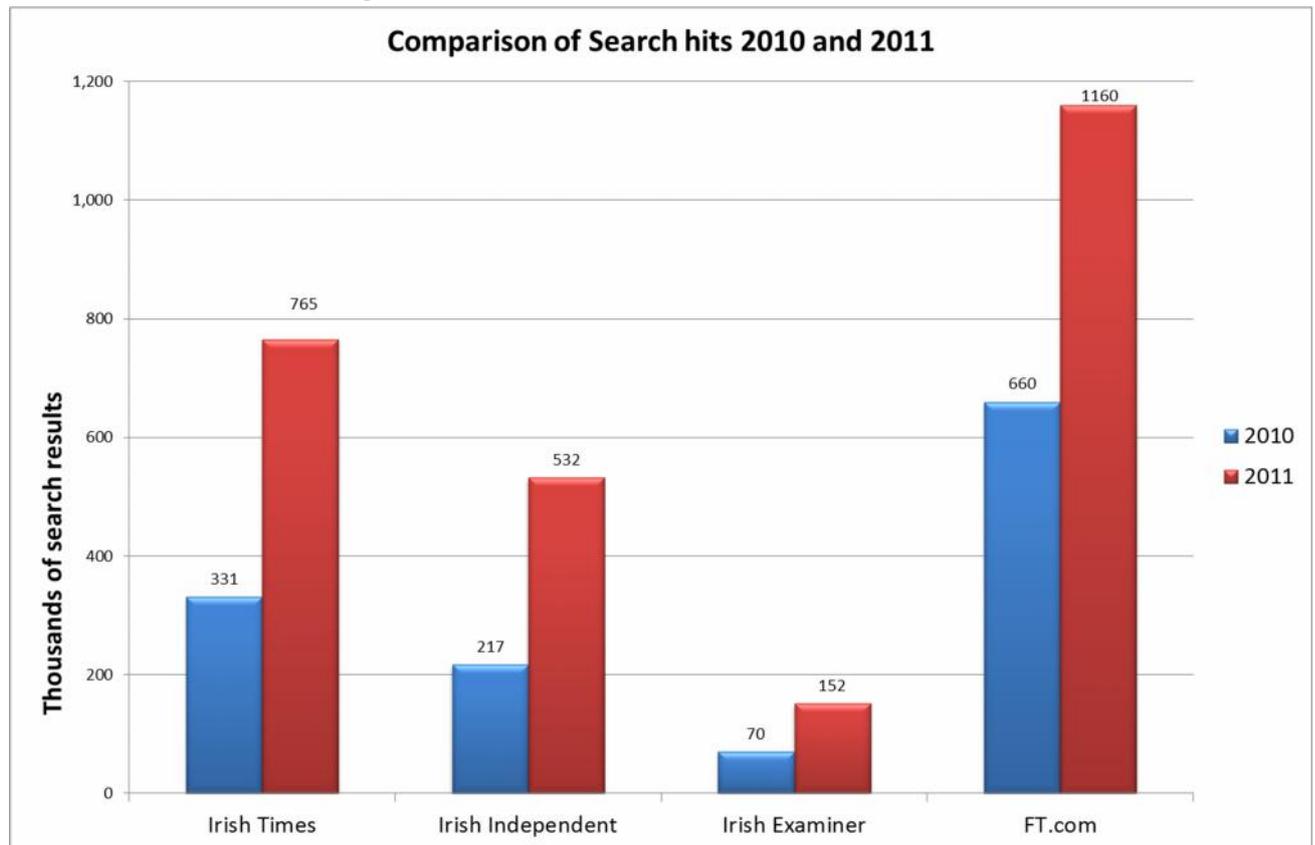


Figure 2: Comparison of actual search hits returned 2010 v 2011

While the percentage growth in the FT.com domain was only in double digits, they were starting from a baseline of over 600,000 search results returned in 2010. The Irish Times has also grown significantly from over 300,000 results in 2010 to over three quarters of a million in 2011. The Irish Examiner has also had a substantial jump in coverage, but it is starting from a significantly lower base line level (with its 2010 results being equivalent to 30% of those returned from the Irish Independent).

It is clear from these findings that stories focussing on Data Protection issues feature increasingly strongly in mainstream media outlets when we compare 2010 and 2011, suggesting that our hypothesis that this topic is becoming more main-stream is correct.

We extended this comparison to look at the first month of 2012, comparing January 2012 with January 2011 and January 2010 across the three Irish broadsheets included in this study. The results of that comparison are in the graph below and they suggest that, should 2012 mirror previous years there will be a further significant increase in media coverage of

Data Protection issues. In saying this we must point out that 2012 and 2013 are likely to feature coverage of discussion and debate of the new EU Regulations on Data Protection, a second visit to Facebook from the Irish Data Protection Commissioner, and the potential for further high profile breaches or suspected breaches of the Data Protection Acts to emerge.

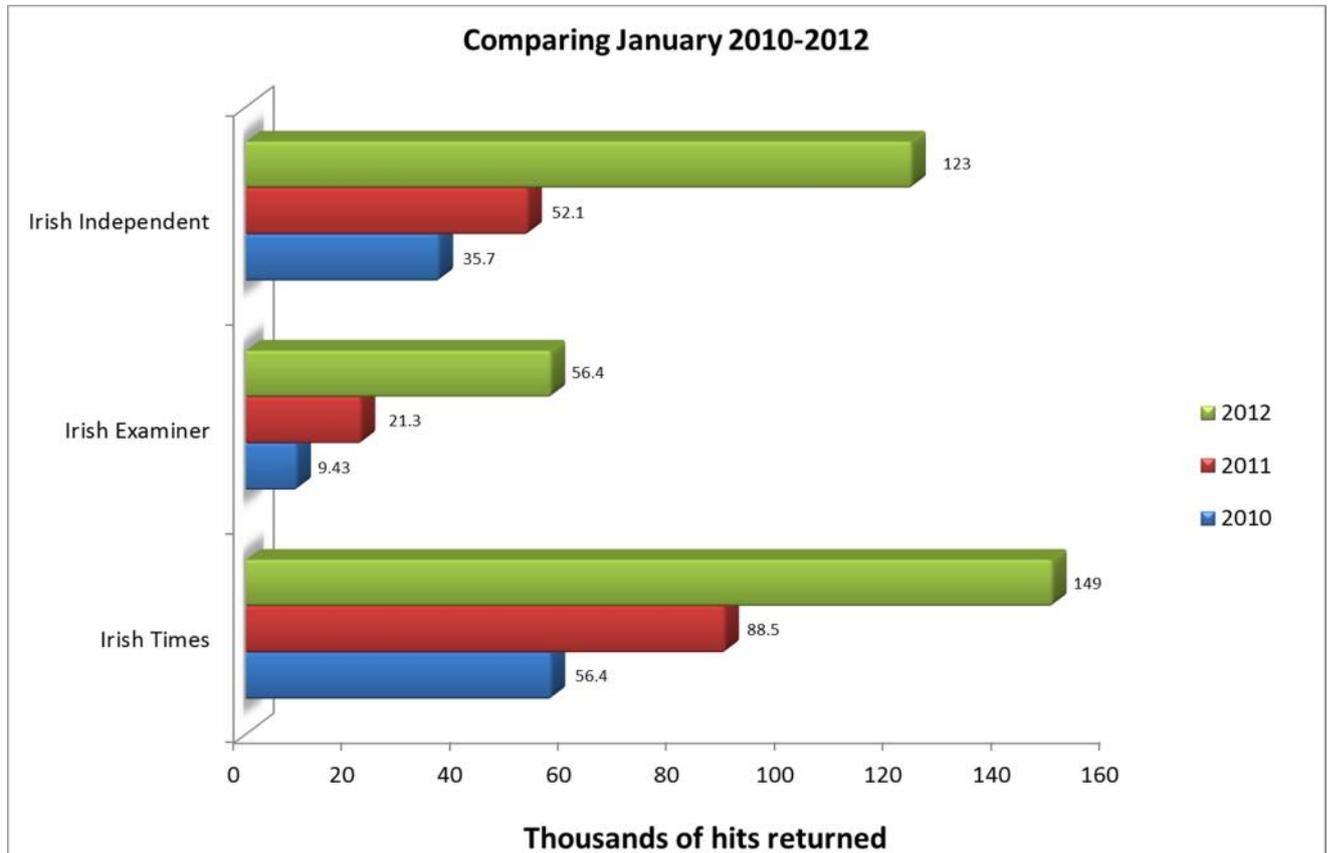


Figure 3: January Snapshots 2010 to 2012

Longitudinal Analysis

While the Snapshot Analysis supports our hypothesis that there is an increase in coverage of Data Protection topics and stories in the media, a longitudinal analysis was conducted to determine if

- a) There was any discernible long term trend in media coverage of Data Protection and Privacy stories.
- b) Has there been any change in the relevance and value of the search results returned over time. In other words: are the results being returned more or less likely to relate to an actual Data Protection story or are they “noise” results returned purely based on the existence of a key word?

Search results for each of the selected newspaper websites were collated from January 2004 to December 2011.

There is a very strong and consistent upwards trend across all news sites analysed

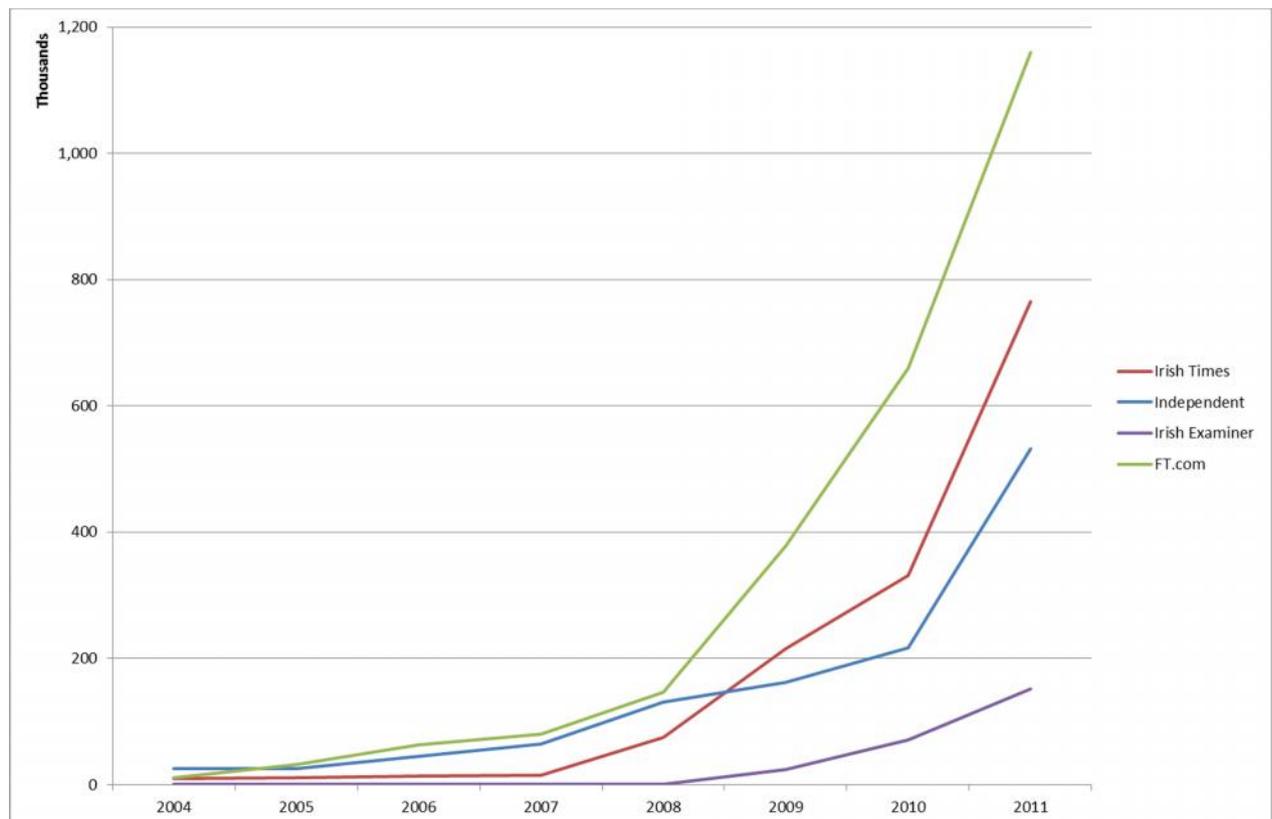


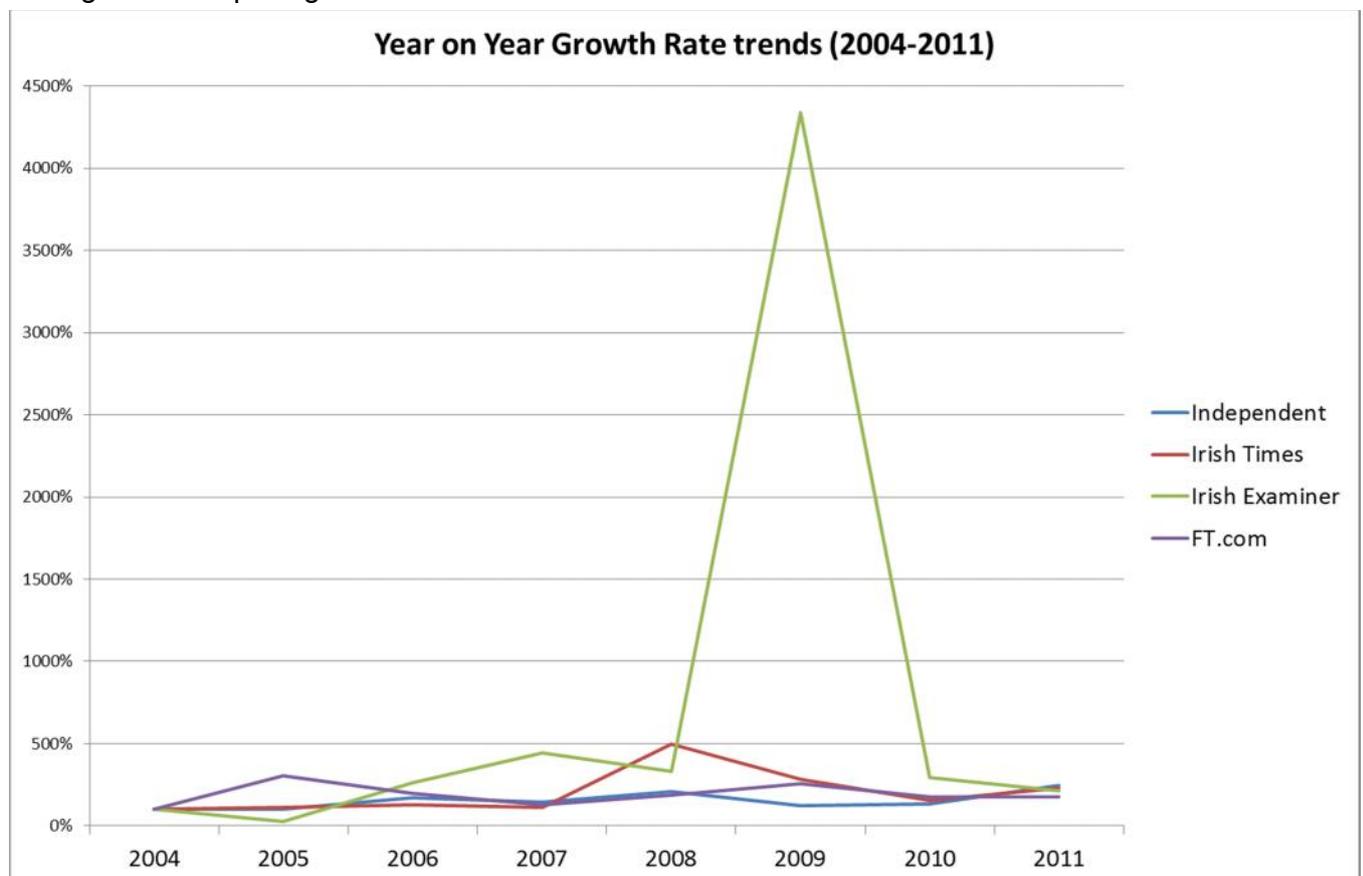
Figure 4: Longitudinal Analysis of Search Results 2004 to 2011 (thousands of hits)

The strong and consistent upwards trend across all four media outlets is obvious.

Further analysis of the graph reveals some points of interest:

1. The shift upwards in results returned begins sharply between 2007 and 2008, with a significant acceleration for the Irish Times and the Financial Times between 2008 and 2009. This would suggest that the arrival of social networking tools may have influenced both the interest in and discussion of this topic (Twitter was launched in 2006)
2. The Irish Independent historically had more hits than the Irish Times, but 2008/2009 saw the hits returned from the Irish Times increase rapidly (mirroring to an extent the trend of the Financial Times). The Independent and Times share an inflexion point in 2010 which further steepens the growth curve.
3. The Irish Examiner has lagged significantly behind in terms of hits returned from Google. However their growth rate in recent years has been steady.

We conducted a year on year analysis of the percentage growth rate in hits returned from each of the media outlets included in this study. This was done in an effort to strip out the effect of “background noise” caused by non-relevant search results in the datasets. The findings were surprising.



The 4335% increase year on year in coverage by the Irish Examiner in 2009 represents a significant data point that is worthy of more detailed study that is outside the scope of this paper. It also represents a significant outlier that affects our analysis of the results. Therefore we excluded the Irish Examiner from the ‘forward looking’ analysis. However, even from this data it is clear that the growth rates in coverage of Data Protection and Privacy stories are significant and constant.

For the reason outlined above we excluded the Irish Examiner from the next piece of analysis we conducted, a ‘forward looking’ analysis. We also wanted to determine if there were similarities in the trends in each newspaper that would suggest inflection points or “light bulb moments” where Data Protection stories began to become of more interest to that publication.

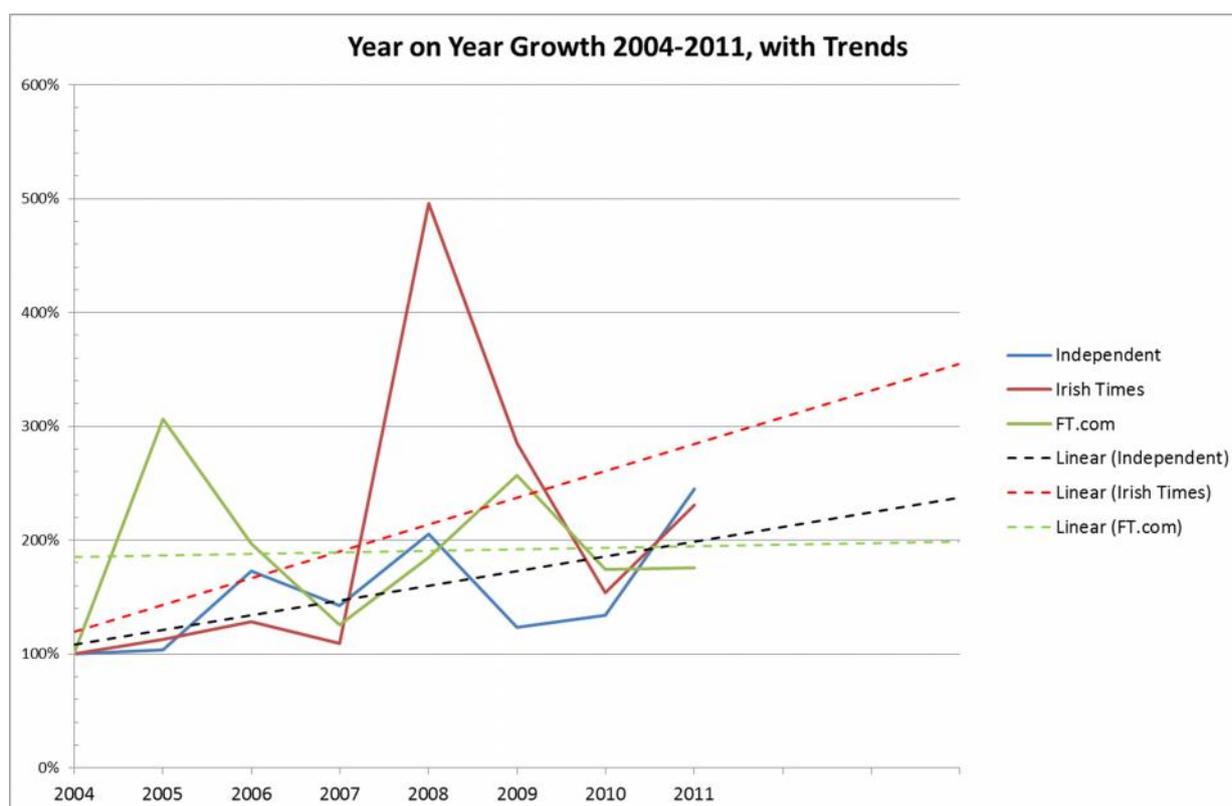


Figure 5: Year on year growth comparisons, with trends

Although not on the same scale as the Irish Examiner’s moment of awakening the data suggests that the Irish Times had a ‘light bulb’ moment in 2008 but has returned to lower (but still significant) year on year growth in returned results. The FT.com appears to have

had a major light bulb moment in 2005. The Irish Independent however does not display any particular 'light bulb moment' markers.

Taking Figure 4 and Figure 5 together it would seem that a media outlet will have an awakening of interest in Data Protection and Privacy at some point. However the industry as a whole does not operate to the same schedule as to when that awakening might be, reflecting editorial policies as much as journalistic awareness.

But organisations need to be conscious of the fact that we appear to have passed the 'tipping point' for media coverage of Data Protection issues in the broadest sense and as journalists and commentators become more aware of the issue and sources for comment and verification of facts become more readily available to them (e.g. on-line resources, independent consultants, or increased media engagement from the Data Protection Commissioner) then there is a significant probability that the level of and quality of coverage will increase.

While we cannot predict the next great 'light bulb moment' for any of the newspapers, a statistical trend analysis allows us to predict what the growth trend will be into the future, assuming all other things remain equal. While based on sound statistical theory this is, of course, a prediction. However based on the historic data of the past seven years and looking forward three years we would predict that

1. Irish Times will be the most likely to feature Data Protection and Privacy stories or content on their website. This is likely to be a result of increasingly informed journalistic and editorial staff building out from the "light bulb moment" that appears to have occurred in 2008.
2. The Financial Times will plateau at more or less the current growth rates, suggesting that its 'light bulb' moment was quite some time ago and it has reached a 'steady state' in terms of editorial approach to Data Protection.
3. The Irish Independent will continue to lag the Irish Times in terms of coverage of Data Protection coverage but will still consistently cover Data Protection and Privacy related topics at a much higher frequency than in the past.

Quality as well?

Our analysis shows that the “story to noise” ratio now favours story content from Irish media

Of course, a demonstrable increase in search hits returned does not necessarily mean that there is an increase in the quality or relevance of the data returned. To explore this aspect we performed a qualitative analysis of the data returned in each of the searches since 2004. While a qualitative review was performed for the FT.com website, for the purposes of this paper we will focus on the three Irish newspapers selected for review. We looked at the first 10 results returned as other studies¹ have shown that these get almost 90% of click-throughs.

Also, the nature of Google search means that it proved difficult to consistently recreate our findings. While the variance was small it does mean that this is indicative data and we cannot guarantee exactly the same results if you were to run the queries yourself.

A returned result was classed as “noise” if it contained the phrase “data protection” or the word “privacy” but was not related to a Data Protection issue. Examples of stories excluded on this basis would be celebrity marriage breakups, property listings (boasting “privacy and seclusion”), and links to the Privacy Policies of the newspapers (in the footer of their pages).

In the graph below we present the average trend for “Story to Noise” for the three Irish newspapers in this study.

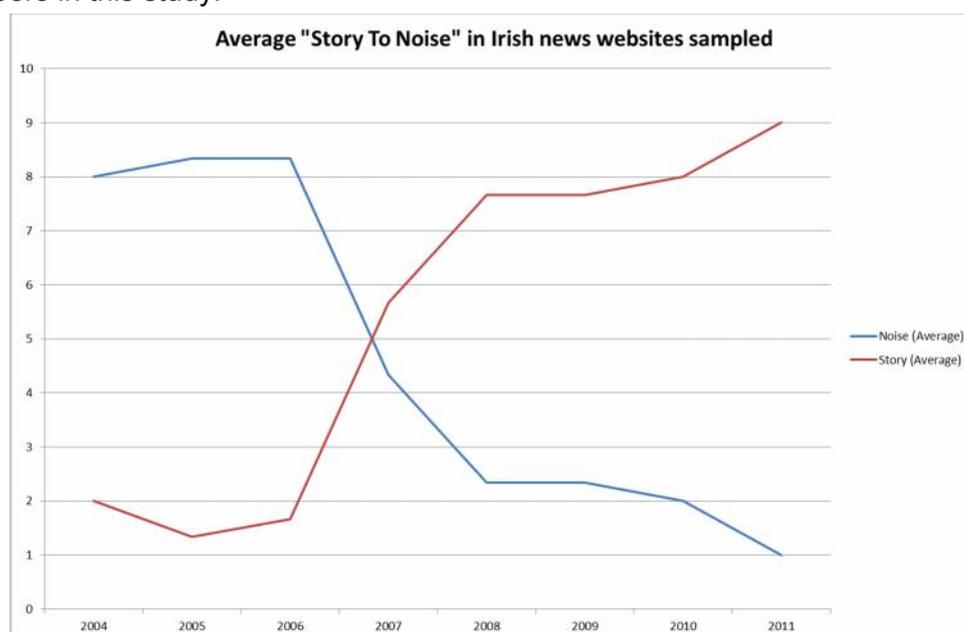
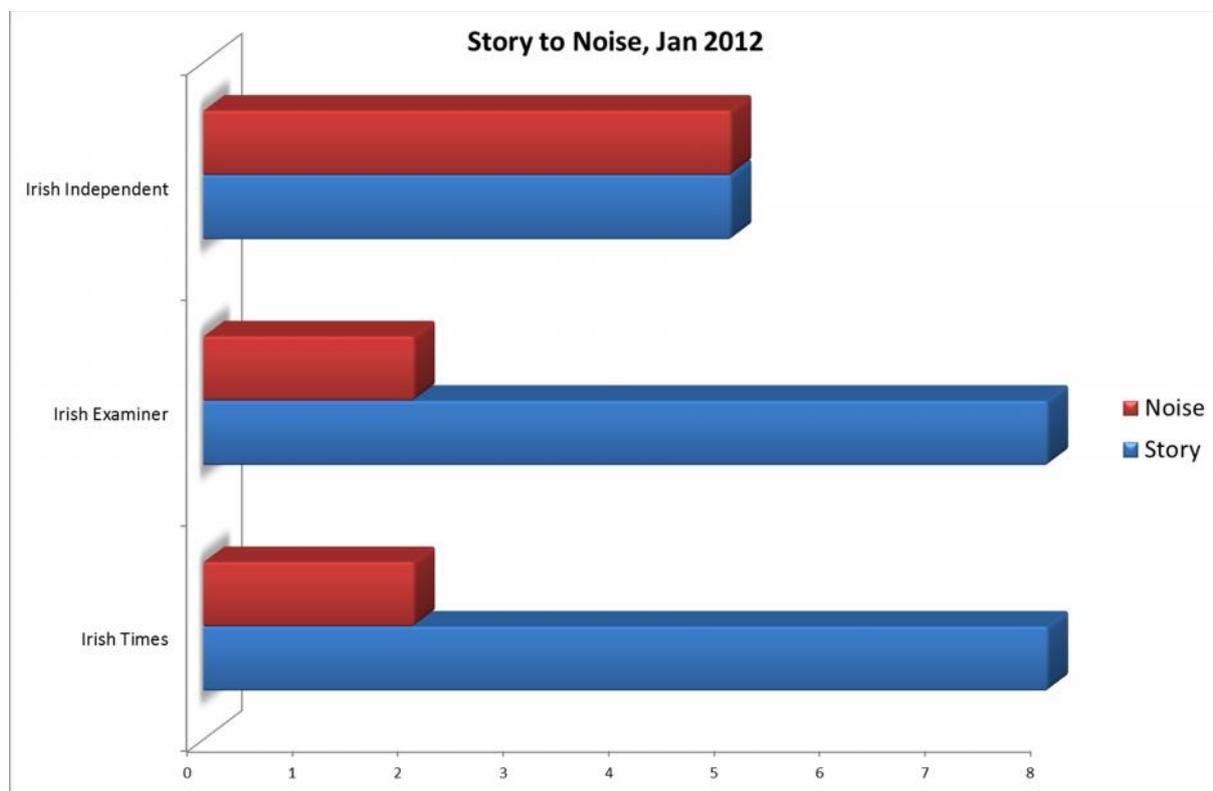


Figure 6: Average "Story To Noise" 2004-2011

The data is stark: since 2007 the ratio of “Story to Noise” has changed dramatically in Irish media. Given that secluded and private property is still being marketed, celebrities are still breaking up, and the newspapers still have links to their own privacy policies on their websites, the underlying finding here is that the content is getting more relevant to and more frequently related to Data Protection regulations and their role in managing privacy.

An analysis of the “story to noise” ratio for the month of January 2012 (up to 29th January) was also conducted. It reveals the same underlying trend within the Irish media. Both the Irish Times and Irish Examiner have an 80% story to 20% noise ratio this month based on the first 10 results returned from a Google search. The Irish Independent is sitting at 50/50.



A detailed comparison of “Story to Noise” for the Irish Independent, Irish Times, Irish Examiner, and Financial Times websites from 2004 to 2011 is produced on the next page.

One additional interesting trend that seems to be emerging is a shift away from an equation of “Data Protection” with security of data in the media to an understanding of the broader issues and considerations relating to Data Protection, such as lawful purposes for processing, legality of data sharing, fair processing etc. It is too early to speculate whether this trend is a ‘light bulb moment’ that will lead to a sustainable shift in editorial approach.

Story vs Noise (Qualitative assessment of relevance to Data Protection Themes)

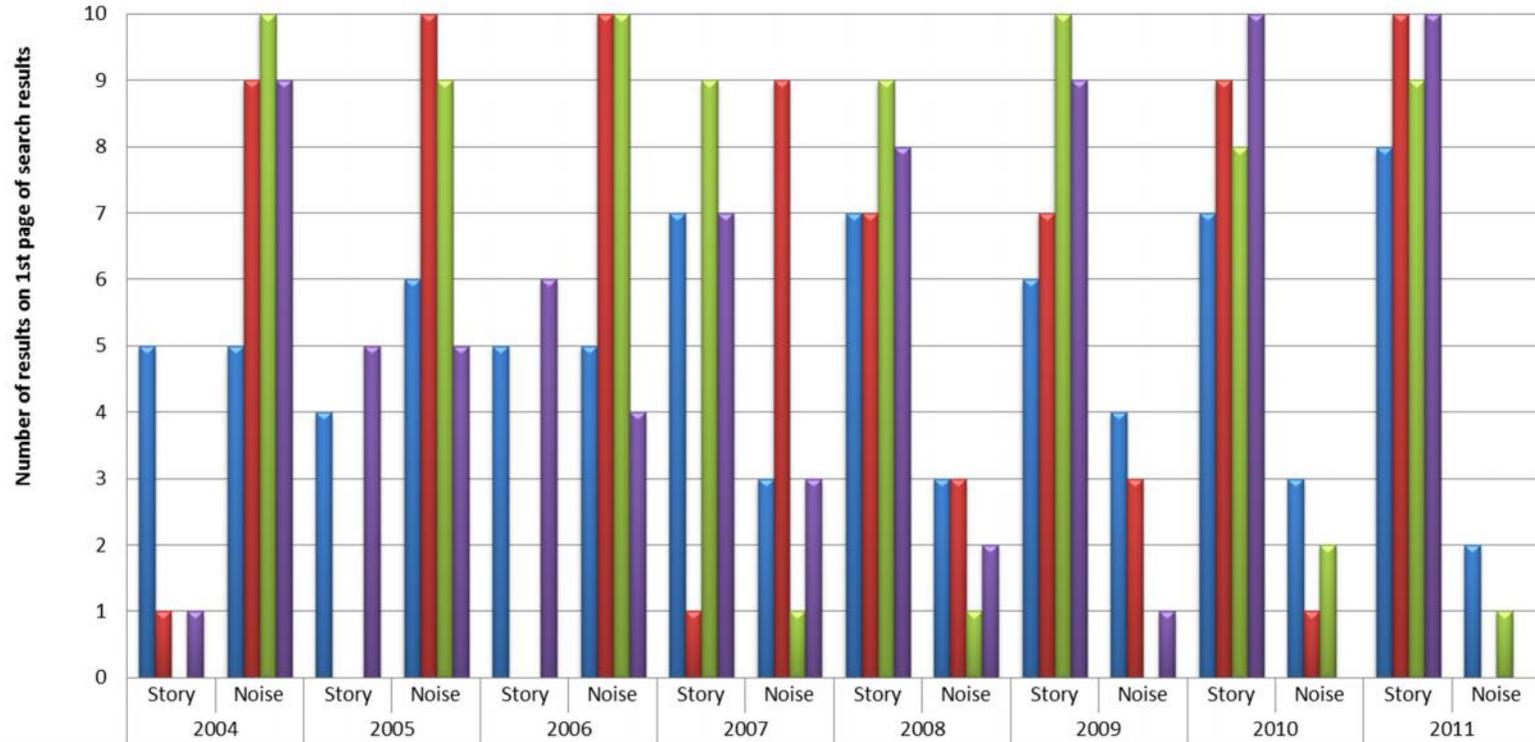


Figure 7: Story to Noise since 2004

Conclusions

The media has woken up to Data Protection as a story in Ireland. Both in terms of sheer numbers of search results and the percentage change year on year the trends are clear – this is a topic of interest and will become more so.

The significant shift in the “story to noise” ratio is evidence that there is more qualitative content being produced by the newspapers in question in their on-line editions. This is indicative of a more alert if not more aware cadre of journalists who are at least awake to the possibility of a Data Protection aspect to a story and will cover it if it adds to the article.

We have not commented on the quality of the actual coverage itself as the scope of this paper is to identify whether or not the bulls-eye has gotten bigger for Data Protection in the Irish media. Our analysis shows that it has, our forecast is that this will continue to grow, and our view is that quantity of coverage will inevitably bring an improvement in quality and focus of the reporting as journalists become more aware of the specifics Data Protection and its scope.

Our sense from the shift in the content and focus of Data Protection coverage, particularly from 2011 onwards, is that there is a broadening of understanding of the issues away from just “security of data” to the more ‘human rights’ aspects of data. Journalists and editors may finally be seeing this as a topic that has merit outside the Technology or Business sections. However there is not enough data to verify this as a trend.

The bulls-eye has gotten a lot bigger for organisations processing personal data. The probability of your Data Protection Failure becoming newsworthy has grown significantly in recent years. Organisations which fail to take the appropriate steps to meet the requirements of the Data Protection Acts are risking both Regulatory penalties from the Data Protection Commissioner and featuring in the on-line edition of a daily newspaper, if not the front page of the print edition.

As such, the leaders in organisations that are processing personal data need to take action to ensure that any news about them is good news.

Recommendations

Having outlined our analysis of the media trends in this area, we now look to what organisations can do to manage and mitigate the risk of media coverage of their Data Protection issues.

1. No news is good news (Prevention is better than cure)

This is the best way to have things. Doing everything right and avoiding media scrutiny. To achieve this we would recommend that organisations take a number of simple steps to minimise the chance of them doing anything negatively newsworthy with their customer's data.

- Leaders in organisations need to familiarise themselves with Data Protection regulations and should ensure appropriate training for all staff to help minimise the risks of Data Protection incidents.
- Leaders in organisations need to remember that Data Protection is about a lot more than just keeping the data safe and secure. Principles of Fair Obtaining, Fair Processing, Retention of Data and Rights of Access to data are all factors that the organisation needs to consider.
- Organisations need to adopt a “Privacy by Design” approach to any proposed business model, process changes, collaboration, or other venture to ensure that any Data Protection issues which might arise are identified and appropriate steps taken to mitigate those risks.
- Attention should be paid to how you manage your suppliers of data and data processing tools or services. If you buy or rent data from 3rd parties, you need to ensure that they have the data lawfully and are legally entitled to share it with you. Likewise any outsourced IT or Call Centre function must operate under an appropriate contract that makes it clear the scope of the engagement.
- Ensure key processes involving personal data are documented so that any gaps and risks can be identified and the impact of changes or work-arounds can be understood **before** problems arise.

In our experience it is important that organisations start to think of Data Protection compliance not as a “tick box” exercise or overhead but rather as a “Quality System” applied to Personal Data as a critical asset of your organisation.

2. Be Prepared

Mistakes will happen. Errors will occur. Systems will fail. Suppliers of services will let you down. Part of the “Quality System” mind set to Data Protection is an acceptance of this and a focus on being prepared for it. This preparation takes two forms.

a) Be prepared to answer questions and demonstrate your Quality System

Whether it is a customer, a journalist, or the Data Protection Commissioner asking, you should be able and ready to provide answers about your Data Protection Quality System.

Questions which might arise include:

- *Can you demonstrate how you have consent for the processing of that data?*
- *What is the lawful basis for the processing (or transfer, or sharing) of that data?*

In a number of recent incidents which were covered extensively in the media the people responding to media queries about Data Protection responded with aspirational rather than informative statements about the situation. These statements, repeated mantra-like, stressed the “assiduous” nature of the organisation’s compliance with Data Protection regulations. The focus on the mantra (“assiduous compliance” or “the website is secure”) can also lead to organisations not realising they are exposed (e.g. a secure website that is sharing data without lawful reasons).

A key element of this preparation needs to be that you have evidence to support your answers to the questions you may be asked. For example, if responding to queries about the legal basis for sharing data with another organisation, it is essential to have that information to hand when responding.

That requires the organisation’s leaders to have done their homework before launch and having processes in place to keep policies, procedures, and practices under review against the most current legislation and Best Practice.

Not being able to provide upfront answers to media or the Data Protection Commissioner simply leads to more questions and further fuels the news cycle.

b) Be Prepared to Listen

All too often organisations receive notice from various sources (e.g. customers, social media, or suppliers) of potential Data Protection issues long before the issue becomes newsworthy. Organisations need to be alert to these inputs and be willing to listen.

If you have been warned of a potential issue and have dismissed it, it is almost inevitable that this will come to light in the media coverage.

c) Be Prepared to learn

Data Protection is a Quality System for Personal Data. Part of any quality system is the “Root Cause Analysis” and lessons learned. Your organisation needs to have a mechanism in place to ensure that you can identify the source of the problem and put in place appropriate training, process changes, governance, or technical controls to prevent future occurrences.

When dealing with the media (and for that matter the Data Protection Commissioner) being able to present a plan for prevention of future errors puts you in a stronger position.

ⁱ See <http://www.jeffbullas.com/2010/07/14/10-facts-reveal-the-importance-of-ranking-high-in-google/> for details of this statistic.