

Media Representations of Privacy and Data Protection: Covid-19 Coverage in the *Irish Times* Newspaper

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Abstract

In 2020, the spread of SARS-CoV-2 and the disease it causes, Covid-19, gripped the global news cycle.¹ As people attempted to understand the risks and consider the implications, they eagerly sought information. All forms of media, from newspaper to broadcast to social, responded to meet that demand. In addition to the media reporting on the healthcare challenges and responses to Covid-19, the pandemic appeared to influence the discussion of almost all topics at the height of the crisis. Consideration of Covid-19 permeated coverage of everything from politics and elections to education and the family, from professional sports to culture and the arts, from economics and commerce to law enforcement and the courts.² A notable theme of coverage for legal scholars that emerged across numerous contexts was the protection of privacy and data protection in the wake of the pandemic.

As discussed in this article, much of the coverage was related to technological responses to the crisis, including the switch to remote work and education and proposals for digitised contact tracing. Privacy and data protection issues also arose in coverage of media reporting, mandated testing, and vaccines. This research sought to examine the representation of privacy and data protection in the Covid-19 context through a case study of *Irish Times* coverage during the acute stage of the pandemic. Analysis was conducted on articles sourced from LexisNexis that were published from January 2020 to July 2021, and coding was done using NVivo software. The focus on a single broadsheet, the ‘paper of record’, narrows the lens of the study, and may under-represent different perspectives. The decision to limit scope in this way was made to facilitate the close study of the leading outlet for coverage of privacy and data protection issues in the Covid-19 context.

The analysis carried out demonstrates that privacy and data protection were not marginalised during the public health emergency. Indeed, the findings reveal predominantly positive or neutral portrayals, particularly in discussions concerning Covid-19 contact tracing applications, where data protection was presented as essential for public trust. This article highlights the educative role of the media, suggesting that more rights-focused coverage is desirable to ensure that privacy and data protection are anchored in fundamental-rights discourse.

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¹ ‘Only the World Wars Have Rivalled Covid-19 for News Coverage’ *The Economist* (London, 19 December 2020) <<https://www.economist.com/graphic-detail/2020/12/19/only-the-world-wars-have-rivalled-covid-19-for-news-coverage>> accessed 31 July 2025; Neill Fitzpatrick, ‘No News Is Not Good News: The Implications of News Fatigue and News Avoidance in a Pandemic World’ (2022) 8 *Athens Journal of Mass Media and Communications* 145, 145–46.

² Katharine J Mach and others, ‘News Media Coverage of Covid-19 Public Health and Policy Information’ (2021) 8 *Humanities and Social Sciences Communications* 220.

1. Introduction

Privacy is widely recognised as a human right in numerous international treaties and domestic constitutions. While privacy was first affirmed as an international human right in 1948 through Article 12 of the Universal Declaration of Human Rights,³ it was in the European human rights system that the richest conception of the right has developed.⁴ This conception has been the product ‘of two distinct but overlapping political systems’, the European Union and the Council of Europe.⁵ Article 8 of the Council of Europe’s European Convention on Human Rights (ECHR) protects ‘the right to respect’ for ‘private life’, and the privacy jurisprudence of the European Court of Human Rights (ECtHR) has been a ‘powerful force’ leading to domestic legislative change in many Council of Europe Member States.⁶ In the European Union, the rights to privacy and data protection are distinct, yet related. This is reflected in the EU’s Charter of Fundamental Rights (CFR) which provides for the right to respect for private life in Article 7 CFR and provides for a separate right to protection of personal data in Article 8 CFR. Article 16 of the Treaty on the Functioning of the European Union (TFEU) also states: ‘Everyone has the right to the protection of personal data concerning them.’⁷ Both the CFR and Article 16 of the TFEU became primary law as a result of the Treaty of Lisbon entering into force in 2009.

In systems where the right to protection of personal data is not explicitly provided for, the right to privacy often incorporates features typically associated with data protection principles. This is most clearly seen in the development of the ECtHR jurisprudence that began to incorporate data protection rights into Article 8 ECHR in the 1980s by reference to the Council of Europe Convention for the Protection of Individuals with regard to Automatic Processing of Personal Data (Convention No 108).⁸ In the Inter-American System of human rights, data protection is seen as a dimension of the right to privacy.⁹ The UN Human Rights Committee has long interpreted the scope of the right to privacy in Article 17 of the International Covenant on Civil and Political Rights to include elements of data protection, including access and rectification

³ Later followed by art 17 of the International Covenant on Civil and Political Rights in 1966 (ICCPR). Article 12 of the Universal Declaration of Human Rights (UDHR) states that ‘no one shall be subjected to arbitrary interference with their privacy, family, home or correspondence, nor to attacks upon his honor and reputation. Everyone has the right to the protection of the law against such interference or attacks.’ Article 17 of the ICCPR provides that no one shall be ‘subjected to arbitrary or unlawful interference with his privacy, family, home or correspondence, nor to unlawful attacks on his honour and reputation’ and states that everyone has the ‘right to the protection of the law against such interference or attacks’.

⁴ Maria Helen Murphy, ‘Privacy, Surveillance, and Democratic Values: The Adaptability of Human Rights Law in the Digital Age’ in David Mangan, Gijs van Dijck, and Angela Daly (eds), *The Philosophical Foundations of Information Technology Law* (forthcoming).

⁵ Francesca Bignami, ‘Constitutional Patriotism and the Right to Privacy: A Comparison of the European Court of Justice and the European Court of Human Rights’ in Thérèse Murphy (ed), *New Technologies and Human Rights* (Oxford University Press 2009) 128, 135.

⁶ Maria Helen Murphy, ‘A Shift in the Approach of the European Court of Human Rights in Surveillance Cases: A Rejuvenation of Necessity?’ (2014) 5 *European Human Rights Law Review* 515; Thérèse Murphy and Gearoid O’Cuinn, ‘Works in Progress: New Technologies and the European Court of Human Rights’ (2010) 2(4) *Human Rights Law Review* 601–38, 610.

⁷ TFEU, art 16.

⁸ See *Leander v Sweden* [1987] 9 EHRR 433. The ECtHR have continued to develop the Convention concept of data protection under art 8 ECHR. *Amann v Switzerland* (2000) 30 EHRR 843, para 65; *Rotaru v Romania* [2000] ECHR 192, para 43; *PG and JH v The United Kingdom* [2001] ECHR 550, para 57; *Uzun v Germany* (2011) 53 EHRR 24, para 46. See also Paul De Hert and Serge Gutwirth, ‘Data Protection in the Case Law of Strasbourg and Luxembourg: Constitutionalisation in Action’ in Serge Gutwirth and others (eds), *Reinventing Data Protection?* (Springer 2009) 18–19.

⁹ Carlos Affonso Souza and others, ‘From Privacy to Data Protection: The Road Ahead for the Inter-American System of Human Rights’ (2021) 25 *The International Journal of Human Rights* 147.

rights.¹⁰ It should also be noted that Article 1 of the 1995 Data Protection Directive stated, ‘Member States shall protect the fundamental rights and freedoms of natural persons, and in particular their right to privacy with respect to the processing of personal data.’ While traditional conceptions of privacy tend to emphasise opacity and non-disclosure, data protection law is ‘not designed to obscure data but to control – and indeed enable – the sharing of data’.¹¹ This article recognises that privacy and data protection are distinct rights whose functions sometimes overlap and sometimes diverge.¹² Due to the relationship between the rights, there is merit in considering their media representation together, while ensuring accurate differentiation. This approach is also useful in a study of this nature as the rights are often conflated in non-expert discourse.

In spite of its widespread formal recognition, historically, privacy has faced challenges in its representation as a fundamental right. Criticisms have ranged from scepticism regarding the ‘grand scale that claims for privacy are pressed today’ to describing the right as a ‘cult’ that ‘rests on an individualist conception of society’.¹³ While increased processing power and digitalisation of everyday life continues to challenge the protection of privacy, the discourse appears to have moved on from the argument that privacy is an anachronistic value in modern life.¹⁴ The new privacy landscape is largely shaped by a trend of global data privacy legislation, heavily influenced by European Union data protection and privacy laws.¹⁵ This has led even prolific data users, like large technology companies, to call for aligned global privacy regulations.¹⁶

¹⁰ CCPR General Comment No 16: Article 17 (Right to Privacy) The Right to Respect of Privacy, Family, Home and Correspondence, and Protection of Honour and Reputation Adopted at the Thirty-second Session of the Human Rights Committee, on 8 April 1988.

¹¹ Rónán Kennedy and Maria Helen Murphy, *Information and Communications Technology Law in Ireland* (Clarus 2017) 100; Serge Gutwirth and Paul De Hert, ‘Privacy, Data Protection and Law Enforcement. Opacity of the Individual and Transparency of Power’ (2022) 18 *Direito Público* <<https://www.portaldeperiodicos.idp.edu.br/direitopublico/article/view/6200>> accessed 31 July 2025.

¹² Orla Lynskey, *The Foundations of EU Data Protection Law* (Oxford University Press 2016) 3.

¹³ Graeme Laurie, *Genetic Privacy: A Challenge to Medico-Legal Norms* (Cambridge University Press 2002); Richard F Hixson, *Privacy in a Public Society: Human Rights in Conflict* (Oxford University Press 1987); HW Arndt, ‘The Cult of Privacy’ (1949) 21 *The Australian Quarterly* 68.

¹⁴ James Rule, *Privacy in Peril* (Oxford University Press 2007) xi. Henry Mance, ‘Is Privacy Dead?’ *Financial Times* (London, 19 July 2019) <<https://www.ft.com/content/c4288d72-a7d0-11e9-984c-fac8325aaa04>> accessed 31 July 2025; Brian X Chen, ‘The Battle for Digital Privacy Is Reshaping the Internet’ *The New York Times* (New York, 16 September 2021) <<https://www.nytimes.com/2021/09/16/technology/digital-privacy.html>> accessed 31 July 2025; Neil M Richards, ‘Privacy Is Not Dead – It’s Inevitable’ *Boston Review* (Boston, 19 May 2014) <<https://www.bostonreview.net/articles/privacy-is-not-dead-its-inevitable/>> accessed 31 July 2025.

¹⁵ ‘Gartner Identifies Top Five Trends in Privacy Through 2024’ (*Gartner*, 31 May 2022) <<https://www.gartner.com/en/newsroom/press-releases/2022-05-31-gartner-identifies-top-five-trends-in-privacy-through-2024>> accessed 31 July 2025; Anu Bradford, *The Brussels Effect: How the European Union Rules the World* (Oxford University Press 2020); Simon Gunst and Ferdi De Ville, ‘The Brussels Effect: How the GDPR Conquered Silicon Valley’ (2021) 26 *European Foreign Affairs Review*.

¹⁶ Jon Brodtkin, ‘Tim Cook Calls for Strong US Privacy Law, Rips “Data-Industrial Complex”’ (*Ars Technica*, 24 October 2018) <<https://arstechnica.com/tech-policy/2018/10/tim-cook-calls-for-strong-us-privacy-law-rips-data-industrial-complex/>> accessed 31 July 2025; Brian Heater and Josh Constine, ‘Mark Zuckerberg Actually Calls for Regulation of Content, Elections, Privacy’ (*TechCrunch*, 30 March 2019) <<https://techcrunch.com/2019/03/30/mark-zuckerberg-actually-calls-for-regulation-around-content-elections-privacy/>> accessed 31 July 2025. In spite of making supportive statements in favour of regulatory alignment, technology companies have often been resistant to stronger legislation and enforcement. With the ‘deregulation’ policy of the current US administration, there is broader potential for a change in dynamic on these issues also. This will be an important trend to track. Theodore Schleifer, Maggie Haberman, and Jonathan Swan, ‘The Silicon Valley Billionaires Steering Trump’s Transition’ *The New York Times* (New York, 7 December 2024) <<https://www.nytimes.com/2024/12/06/us/politics/trump-elon-musk-silicon-valley.html>> accessed 31 July 2025.

While research has been conducted on how individuals reflect on privacy and data protection issues,¹⁷ research considering how the media communicates these issues is limited and often anecdotal.¹⁸ One of the few in-depth studies on the issue – based on a German data set – concludes that the media generally support regulating for enhanced protection.¹⁹ Caution is necessary when considering the broader applicability of these findings in other jurisdictions due to the particular history of data protection and privacy in Germany.²⁰ It is also important to recognise that the representation of privacy can vary significantly depending on other contextual factors.²¹ For example, when national security concerns are implicated, the perceived value of privacy may diminish among the general public. In these contexts, the position that ‘if you have nothing to hide, you have nothing to fear’ has held considerable sway in popular discussion.²² In times of national security crises, for example, in the wake of terrorist attacks, limitations to the right to privacy, notably in the form of increased surveillance or restrictions on encryption, can ‘appear more palatable’.²³ In such an environment, new privacy restrictions may be introduced with less scrutiny.²⁴

A challenge in protecting privacy and data protection is their perception as relatively intangible rights. Indeed, individuals are often unaware of privacy and/or data protection intrusions directly affecting them. Furthermore, privacy and/or data protection harms are often cumulative in nature and can be difficult to trace to a specific source or incident. In contrast, the implications of security threats, or indeed public health threats, are more directly discernible and thus their ‘unknowability’ can actually magnify the sense of threat like a menacing spectre.²⁵ A climate of emergency, whether triggered by terrorism or public health,

¹⁷ See, for example, Annika Bergström, ‘Online Privacy Concerns: A Broad Approach to Understanding the Concerns of Different Groups for Different Uses’ (2015) 53 *Computers in Human Behavior* 419; Edoardo Celeste, Sorcha Montgomery, and Arthit Suriyawongkul, ‘Digital Technology and Privacy Attitudes in Times of Covid-19: formal legality versus legal reality in Ireland’ (2022) 73(2) *Northern Ireland Legal Quarterly* 283–309; Dara Hallinan, Michael Friedewald, and Paul McCarthy, ‘Citizens’ Perceptions of Data Protection and Privacy in Europe’ (2012) 28 *Computer Law & Security Review* 263; Malika Bendeche and others, ‘Public Attitudes towards Privacy in Covid-19 Times in the Republic of Ireland: A Pilot Study’ (2021) 30(5) *Information Security Journal*.

¹⁸ Thilo von Pape, Sabine Trepte, and Cornelia Mothes, ‘Privacy by Disaster? Press Coverage of Privacy and Digital Technology’ (2017) 32 *European Journal of Communication* 189; Susan Barnes, ‘A Privacy Paradox: Social Networking in the United States’ (2006) 11 *First Monday*; Danah M Boyd and Nicole B Ellison, ‘Social Network Sites: Definition, History, and Scholarship’ (2007) 13 *Journal of Computer-Mediated Communication* 210.

¹⁹ von Pape, Trepte, and Mothes (n 18).

²⁰ Gerrit Hornung and Christoph Schnabel, ‘Data Protection in Germany I: The Population Census Decision and the Right to Informational Self-Determination’ (2009) 25 *Computer Law & Security Review* 84.

²¹ Federica Fornaciari, ‘What Is Privacy Anyway? A Longitudinal Study of Media Frames of Privacy’ (2017) 3(1) *Intellectual Freedom & Privacy* 189–207.

²² Daniel J Solove, ‘I’ve Got Nothing to Hide and Other Misunderstandings of Privacy’ (2007) 44 *San Diego Law Review* 745; Conor Gearty, ‘Reflections on Civil Liberties in an Age of Counterterrorism’ (2003) 41 *Osgoode Hall Law Journal* 187.

²³ Michael Fromkin, ‘The Metaphor Is the Key: Cryptography, the Clipper Chip, and the Constitution’ (1995) 143 *University of Pennsylvania Law Review* 709, 850.

²⁴ See, for example, the case of the US PATRIOT Act following the September 11th terrorist attacks: *Uniting and Strengthening America by Providing Appropriate Tools Required to Intercept and Obstruct Terrorism Act of 2001* 107–56; Beryl Howell, ‘Seven Weeks: The Making of the USA Patriot Act’ (2003–2004) 72 *George Washington Law Review* 1145; Kennedy and Murphy (n 11) 200; Christopher Slobogin, *Privacy at Risk: The New Government Surveillance and the Fourth Amendment* (University of Chicago Press 2007) 3; Maria Helen Murphy, *Surveillance and the Law: Language, Power and Privacy* (Routledge 2019) 22–23.

²⁵ Maria Helen Murphy, *Surveillance and the Law: Language, Power and Privacy* (n 24) 20–24.

tends to lead to calls to curtail civil liberties, even though the specific populations affected and degree of harm caused by such limitations can vary depending on the context.²⁶

Following the emergence of reports regarding the novel virus SARS-CoV-2 and the disease it causes, Covid-19, the topic quickly dominated the global news cycle. As the virus spread in 2020 and states of emergency were declared around the world, a collective sense of concern took hold not dissimilar to that which tends to follow terrorist attacks. Even though the global state of emergency has passed,²⁷ and newspaper coverage of the issue has become sporadic, the response to the acute stage of the pandemic continues to offer insights on many topics, including our understandings of privacy and data protection. A significant theme of the media coverage of Covid-19 has concerned the role of technology in helping society to both ‘fight’ and to ‘live with’ Covid-19.²⁸ Data protection and privacy challenges have been identified in many contexts during the pandemic – from the development of contact-tracing applications to the unplanned shift to remote work and education.²⁹ Accordingly, a significant subset of media coverage during the acute stages of the pandemic concerned the data protection and privacy implications of technological responses to the virus. Considering how much of the popular discourse focused on technology and data as being key solutions to the Covid-19 crisis, media coverage of the acute stage of the pandemic provides a rich source of insight into the media representation of privacy and data protection in a time of emergency.

The media assumed an important information-sharing role during the pandemic. In addition to directly communicating official public health advice and guidelines, the media acted as a science communicator by facilitating the absorption of the evolving science on Covid-19 into the wider community.³⁰ High-quality science communication was particularly important during

²⁶ Fionnuala Ní Aoláin, ‘Covid-19, Counter-Terrorism and Emergency Law, Report Prepared under the Aegis of the Mandate of the Special Rapporteur on the Promotion and Protection of Human Rights and Fundamental Freedoms While Countering Terrorism’ (Office of the High Commissioner for Human Rights 2023) <<https://www.ohchr.org/sites/default/files/documents/issues/terrorism/sr/activities/position-paper-sr-ct-Emergency-Powers.pdf>> accessed 31 July 2025; Kristine Eck and Sophia Hatz, ‘State Surveillance and the Covid-19 Crisis’ (2020) 19 *Journal of Human Rights* 603.

²⁷ ‘WHO Chief Declares End to Covid-19 as a Global Health Emergency: UN News’ (*United Nations*, 5 May 2023) <<https://news.un.org/en/story/2023/05/1136367>> accessed 31 July 2025.

²⁸ Matt Richtel, ‘Looking to Reopen, Colleges Become Labs for Coronavirus Tests and Tracking Apps’ *The New York Times* (New York, 30 August 2020) <<https://www.nytimes.com/2020/08/30/us/colleges-coronavirus-research.html>> accessed 31 July 2025; ‘To Curb Covid-19, China Is Using Its High-Tech Surveillance Tools’ *The Economist* (London, 29 February 2020) <<https://www.economist.com/china/2020/02/29/to-curb-covid-19-china-is-using-its-high-tech-surveillance-tools>> accessed 31 July 2025; ‘Israel’s Covid-19 Vaccination Pass Opens Fast Track to Normal Life’ (*NBC News*, 21 February 2021) <<https://www.nbcnews.com/news/world/green-pass-israel-s-covid-19-vaccination-certificate-opens-fast-n1258467>> accessed 31 July 2025; Sameer Hasija, ‘Smart Cities Can Help Us Manage Post-COVID Life, but They’ll Need Trust as Well as Tech’ (*The Conversation*, 2 June 2020) <<http://theconversation.com/smart-cities-can-help-us-manage-post-covid-life-but-theyll-need-trust-as-well-as-tech-138725>> accessed 31 July 2025; Shawn Yuan, ‘How China Is Using AI and Big Data to Fight the Coronavirus’ (*Al Jazeera*, 1 March 2020) <<https://www.aljazeera.com/news/2020/3/1/how-china-is-using-ai-and-big-data-to-fight-the-coronavirus>> accessed 31 July 2025; Genevieve Bell, ‘We Need Mass Surveillance to Fight Covid-19 – but It Doesn’t Have to Be Creepy’ (*MIT Technology Review*, 12 April 2020) <<https://www.technologyreview.com/2020/04/12/999186/covid-19-contact-tracing-surveillance-data-privacy-anonymity/>> accessed 31 July 2025; ‘The World Embraces Contact-Tracing Technology to Fight Covid-19’ (*Bloomberg.com*, 30 April 2020) <<https://www.bloomberg.com/news/articles/2020-04-30/the-world-embraces-contact-tracing-technology-to-fight-covid-19>> accessed 31 July 2025; ‘COVID Tracker: Essential for Our Healthcare’ (18 August 2020) <<https://irishtechnews.ie/covid-tracker-essential-for-our-healthcare/>> accessed 31 July 2025.

²⁹ Róisín Costello, David Fennelly, and Maria Grazia Porcedda, ‘Data Protection and the Covid-19 Pandemic: A Public Policy Report of the Covid-19 Legal Observatory’ (2021) <<https://www.tcd.ie/law/2020.21/Data-Protection-and-COVID19%20Report.pdf>> accessed 31 July 2025.

³⁰ ‘To Curb Covid-19, China Is Using Its High-Tech Surveillance Tools’ (n 28); ‘Israel’s Covid-19 Vaccination Pass Opens Fast Track to Normal Life’ (n 28); Hasija (n 28); Yuan (n 28); Bell (n 28); ‘The World Embraces

the acute stage of the Covid-19 pandemic. The evolving and sometimes uncertain scientific understanding of the public health situation had to be effectively conveyed to the general public. In an environment where people were confronted with unfamiliar health mitigations – including social distancing, ventilation, and respirators – as well as rapidly developed vaccines and medical treatments, accurate and consistent reporting was a critical public service. This article adopts the perspective that the media also has a role to play in ‘human rights communication’, including as regards the rights to privacy and protection of personal data. A meta-analysis of public opinion surveys on data protection and privacy in the EU found that while general awareness of the legal framework was strong, ‘deeper knowledge of the framework and its function within a broader legal and social framework’ was relatively superficial.³¹ According to Hallinan, Friedewald and McCarthy, this can cause ‘an undervaluation of privacy as a social value’.³² In addition to reporting on legal outcomes and the practical implications of laws, media reporting can improve legal and human rights literacy. This, in turn, can foster greater awareness of rights and the remedies that are available for those seeking vindication.

This article examines the representation of privacy and data protection in the Covid-19 context through a case study of *Irish Times* coverage during the acute stage of the pandemic. As set out below, the analysis was limited to print media coverage identified through LexisNexis, which provides a fully searchable archive for systematic collection. The *Irish Times* was selected for particular attention in this project. As discussed below in more detail, the *Irish Times* was identified as leading in sheer volume of coverage of privacy and data protection issues in the Covid-19 context during the period under study.³³ While its coverage of the topic fluctuated over time, the publication consistently provided a high level of coverage compared to the other publications considered, particularly during the early emergency phase of the pandemic. This provided the author with a rich data set for analysis.

In spite of having lower daily readership than the *Irish Independent*, the *Irish Times* is often referred to as the Irish ‘paper of record’.³⁴ This unofficial title carries with it a ‘degree of authority and status’ for the ‘reporting of social, political and economic issues’.³⁵ It should be acknowledged, perhaps as a partial corollary to its perceived status, that research by others has found the *Irish Times*, as well as other major Irish newspapers, to show some bias in favour of ‘institutional viewpoints’ and ‘a dependency on the voices of government officials’ and similar

Contact-Tracing Technology to Fight Covid-19’ (n 28); Chris Bryant, ‘Does Australia Need a More Effective Policy of Science Communication?’ (2003) 33 *International Journal for Parasitology* 357; TW Burns, DJ O’Connor, and SM Stocklmayer, ‘Science Communication: A Contemporary Definition’ (2003) 12 *Public Understanding of Science* 183, 191.

³¹ Dara Hallinan, Michael Friedewald, and Paul McCarthy, ‘Citizens’ Perceptions of Data Protection and Privacy in Europe’ (2012) 28 *Computer Law & Security Review* 263.

³² *ibid.*

³³ Following the use of the search string (‘data protection’ OR ‘privacy’) AND (‘covid-19’ OR ‘coronavirus’) on Lexis Nexis.

³⁴ Mark O’Brien, *The Irish Times: A History* (Four Courts Press 2008) 13. The *Irish Independent* leads in average issue readership according to TGI 2024 (350,000), leaving *The Irish Times* in second place (261,000): ‘National Press Market Overview’ (*MediaLive*, 2024) <https://www.medialive.ie/index.php?id=44&option=com_content&view=category> accessed 24 November 2025.

³⁵ Aileen Marron, ‘“Overpaid” and “Inefficient”: Print Media Framings of the Public Sector in *The Irish Times* and the *Irish Independent* during the Financial Crisis’ (2019) 16 *Critical Discourse Studies* 282, 284–85.

elites.³⁶ It is a limitation of this article that more diverse forms of media and other modes of communication are not considered. In addition to broadcast media, much news and analysis is now consumed digitally, with a significant amount of that information being distributed and sometimes generated on social media sites. Indeed, the content of all major Irish newspapers is distributed online through their official sites and further distributed and discussed on social media.³⁷ Online news sources – from online newspapers and news sites, to social media influencers, to content shared on messaging applications (including in large groups of members not connected offline) – were an important part of the Irish information ecosystem during the pandemic.

That being said, the conditions of the pandemic raised particular concerns for the spread of misinformation, magnifying reliance on established sources.³⁸ As a result, the focused study of a newspaper with the perceived status of the *Irish Times* can provide important insight into one privileged part of that ecosystem that is a mainstream reference point and may be considered to have outsized influence. Combining this perceived legitimacy with the *Irish Times*' significant reach in print and online, and the fact that it emerged in the research conducted below as a foremost contributor to the debates of relevance to this article, it was determined that the *Irish Times* was worthy of study as an institution with the potential to influence public opinion and the news agenda.³⁹ This article's focus on the coverage of a single broadsheet newspaper necessarily narrows the lens and may under-represent different perspectives that may be found in tabloids or social media. The focus enables, however, a more in-depth study of the content than would otherwise be possible.

It is a starting premise of this project that the media have a vital educative role to play regarding the rights to privacy and data protection, especially when those rights are under pressure from competing public interests. This article aims to enhance understanding of the Irish public discourse on privacy and data protection, particularly when those rights are subject to the pressure of competing public interests. In light of the numerous privacy and data protection issues raised by technological responses to the Covid-19 crisis, media coverage during the acute stage of the pandemic provides an ideal source of insight. As cultural values are 'formed, maintained and reshaped' through media,⁴⁰ examining newspaper coverage during the acute stage of the Covid-19 crisis can provide insight into popular understandings and perceptions

³⁶ *ibid* 282. See, for example, the uncritical reporting of credit ratings from rating agencies during the financial crisis as researched in Anthony Cawley, 'From AAA to Junk: Credit Rating Agencies as News Sources in the Irish Print-Media during the Economic Crisis, 2008–2013' (2016) 17 *Journalism Studies* 647.

³⁷ Indeed, the *Irish Times* has distributed its journalistic content online since 1994: Joe Breen, 'Times They Are a Changin'' *The Irish Times* (Dublin, 19 February 1996) <<https://www.irishtimes.com/news/times-they-are-a-changin-1.30742>> accessed 31 July 2025.

³⁸ Indeed a World Health Organisation study demonstrates continued trust in traditional national newspapers, television and radio as the most reliable sources of Covid-19 information even in the most online-active communities of young adults: Ingrid Volkmer, 'Social Media and Covid-19: A Global Study of Digital Crisis Interaction among Gen Z and Millennials' (WHO 2021) 37 <<https://minerva-access.unimelb.edu.au/handle/11343/283399>> accessed 31 July 2025. See further, Riccardo Gallotti and others, 'Assessing the Risks of "Infodemics" in Response to Covid-19 Epidemics' (2020) 4 *Nature Human Behaviour* 1285; Raili Marling and Marge Käsper, 'Communicating Covid-19: Framing Science and Affect in U.S., French and Estonian Traditional Media' (2021) 14 *ESSACHESS – Journal for Communication Studies* 15.

³⁹ Marron (n 35) 282, 285.

⁴⁰ Shi-xu and Manfred Kienpointner, 'The Reproduction of Culture through Argumentative Discourse' (2001) 11 *Pragmatics* 285, 291; Winnie Cheng and Phoenix Lam, 'Media Discourses in Hong Kong: Change in Representation of Human Rights' (2010) 30 *Text & Talk* 507, 510.

of data protection and privacy as mediated by the media. To begin, it is necessary to set the context by outlining the complex legal landscape governing privacy in Ireland and considering the representation of privacy issues in that context.

2. Privacy and Data Protection from an Irish Perspective

Kelleher notes that privacy is a right which Irish people take ‘very seriously indeed’ and surveys continually reflect that position.⁴¹ The protection of privacy in Ireland can be obtained from a number of different legal sources. Predating the privacy protections provided by the Constitution and supranational human rights treaties, a number of common law causes of action, including breach of confidence, have protected privacy interests.⁴² The 1937 Constitution added a fundamental rights dimension to Irish privacy law. While the Constitution does not enumerate a specific right to privacy, the right is embedded in the document with many ‘different facets’.⁴³ Several of the cases where the constitutional right to privacy has been developed by the Irish courts have received significant media coverage and popular attention. For example, the first case to identify an unenumerated right to privacy under Article 41 of the Constitution, *McGee v Attorney General*, attracted widespread newspaper reporting and subsequently became the subject of a documentary.⁴⁴ The specific facts in *McGee* led to a finding of a breach of ‘marital privacy’ by the Supreme Court and this was the genesis of a line of cases that extended the right beyond the marital context to provide for a general right to privacy.⁴⁵

In 1950, an additional human rights dimension was added to privacy protection in Ireland as the State became one of the first signatories to the aforementioned ECHR. In the 1950s there was a perception that ‘the rights of the Convention were adequately protected under the Irish Constitution and through the robust tradition of judicial review’.⁴⁶ While Irish courts have

⁴¹ Marron (n 35) 282. Denis Kelleher, *Privacy and Data Protection Law in Ireland* (Bloomsbury 2015).

⁴² Kelleher (n 41) 5. It should also be noted that while no distinct privacy tort currently exists in Irish law a ‘horizontally enforceable constitutional right’ has developed into what has been characterised as a ‘constitutional tort’. *Herrity v Associated Newspapers* [2008] IEHC 249. Róisín Costello, *Privacy Law in Ireland* (Bloomsbury 2023) para 6.01.

⁴³ *Norris v AG* [1983] IESC 3; *Schrems v Data Protection Commissioner* [2014] IEHC 310 [53]. Protections can be identified in the Preamble, which provides for respect for human dignity and freedom of the individual; art 16.1.4^o (privacy of the ballot); art 34 (litigation privacy); arts 40.3.1^o and 40.3.2^o (personal autonomy); art 40.5 (inviolability of the dwelling); art 40.6.1^o (right to form associations and unions); art 41 (protection of family life); art 43 (right of private property); and freedom of conscience and religion: Kelleher (n 41) 7.

⁴⁴ *McGee v Attorney General* [1973] IR 284. ‘The Full Judgment: Morality Is the Business of the State’ *Irish Independent* (20 December 1973) 7; ‘Woman Wins Birth Control Case Appeal’ *Evening Herald* (19 December 1973) 2; ‘Importation Ban on Contraceptives Goes’ *Irish Press* (20 December 1973) 5; ‘Contraceptives Can Be Imported’ *Cork Examiner* (20 December 1973) 16; ‘Contraception: ‘Govt. Afraid’-Lecturer’ *Evening Herald* (30 August 1976) 4; Mary Carolan, ‘Woman’s Landmark Case Overturning Ban on Contraception Started “Social Revolution”, Says Supreme Court Judge’ *The Irish Times* (Dublin, 3 December 2023) <<https://www.irishtimes.com/ireland/social-affairs/2023/12/03/womans-landmark-case-overturning-ban-on-contraception-started-social-revolution-says-supreme-court-judge/>> accessed 31 July 2025; ‘New Documentary to Explore Landmark Contraception Case’ (*Irish Legal News*, 21 September 2023) <<https://www.irishlegal.com/articles/new-documentary-to-explore-landmark-contraception-case/>> accessed 31 July 2025.

⁴⁵ In *Kennedy and Arnold v Ireland*, Hamilton P stated that ‘privacy is one of the fundamental personal rights of the citizen which flow from the Christian and democratic nature of the State’ [1987] IR 587 [592].

⁴⁶ Maria Helen Murphy, ‘Repealing the Human Rights Act: Implications for the Belfast Agreement’ (2015) 26 *King’s Law Journal* 335. Similarly, a ‘prominent view around the time of the adoption of the Charter was that it was likely to be of only minor significance, given that it was mainly a codification of existing rights which did not add a great deal to what was already contained in EU law, in national constitutional laws, and in international human rights law. More generally, the Charter was considered unlikely to match the ECHR in its significance or

maintained that the Constitution is the principal ‘source for the protection of rights in Ireland’,⁴⁷ the ECHR has been used as an important ‘additional resource’ for enhancing or strengthening certain rights.⁴⁸ In the privacy context specifically, the Irish courts have been receptive to the ECtHR’s ‘broad, personality based’ understanding of privacy, for example.⁴⁹ As noted by Costello, the expansion of the Constitutional conception of the right to privacy occurred ‘under the influence of European law to include a broader conception of private spaces’.⁵⁰ ECtHR rulings on privacy have also influenced legislative developments in Ireland.⁵¹ For example, successive Governments had to reconsider plans to establish a DNA database in 2007⁵² and again in 2010 in efforts to ensure compliance with *S and Marper v the United Kingdom*.⁵³ As noted by the Minister for Justice and Equality when introducing the Bill that was to finally provide for such a database in 2014, changes to the proposed legislation were described as ‘ensuring that the approach to retention is constitutional and meets the standards of the European Convention on Human Rights’.⁵⁴ The delay in passing DNA Database legislation received some criticism in the media, although the coverage emphasised perceived ‘neglect by successive governments’ and appeared to accept the need to ensure the law was compatible with privacy rights under the ECHR.⁵⁵

influence as a regional human rights instrument’ but this has not been the case: Gráinne De Búrca, ‘The Domestic Impact of the EU Charter of Fundamental Rights’ (2013) 49 *Irish Jurist* 49, 53–54, 57.

⁴⁷ Costello (n 42) 119, referencing *Gorry v Minister for Justice and Equality* [2020] IESC 55; For a discussion of the interaction between the Irish Constitutional and European systems, see Cian Murphy, ‘Ireland and the UK in the European Union and European Convention on Human Rights: A Tale of Two Island Legal Systems?’ in G Martinico and Pollicino (eds), *The National Judicial Treatment of the ECHR and EU Laws. A Comparative Constitutional Perspective* (European Law Publishing 2010).

⁴⁸ De Búrca (n 46) 58.

⁴⁹ Costello (n 42) para 3.138.

⁵⁰ Costello (n 42) para 1.55.

⁵¹ Maria Helen Murphy, ‘The Relationship between the European Court of Human Rights and National Legislative Bodies: Considering the Merits and the Risks of the Approach of the Court in Surveillance Cases’ (2013) 3 *Irish Journal of Legal Studies* 65; Maria Helen Murphy, ‘Data Retention in the Aftermath of Digital Rights Ireland and Seitlinger’ (2014) 24 *Irish Criminal Law Journal* 105.

⁵² Former Minister for Justice McDowell had originally announced plans for a database in 2003: Carl O’Brien, ‘DNA Database Provided for in McDowell Bill’ *The Irish Times* (Dublin, 29 August 2003) <<https://www.irishtimes.com/news/dna-database-provided-for-in-mcdowell-bill-1.371750>> accessed 24 November 2025.

⁵³ The Criminal Justice (Forensic Sampling and Evidence) Bill 2007 was shelved as a result. Maria Helen Murphy, ‘The Criminal Justice (Forensic Evidence and DNA Database System) Bill 2010: Are the Proposals Compliant with the European Convention on Human Rights?’ (2010) 10 *University College Dublin Law Review* 85, 90. The Criminal Justice (Forensic Evidence and DNA Database System) Bill 2010 was intended to take account of *Marper* but a decision was made to revise further to take full account of the ruling. Dáil Deb 9 October 2013, vol 816 (No 2); Cormac O’Keefe, ‘Concern over DNA Data Law’ *Irish Examiner* (Cork, 21 January 2010) <<https://www.irishexaminer.com/news/arid-20110193.html>> accessed 31 July 2025. Following the ruling in *Marper*, the Department of Justice stated that the ‘timetable for publication has been affected somewhat by the need to consider and take account of the implications of the judgment of the ECtHR in the case of *S and Marper v the United Kingdom*’. Ken Foxe, ‘Ruling Puts Garda DNA Database on Hold’ *Sunday Tribune* (Dublin, 3 May 2009).

⁵⁴ Murphy (n 53); Oireachtas (n 53).

⁵⁵ Matthew Holmes, ‘Lack of DNA Database Is a National Disgrace’ *The Irish Times* (Dublin, 17 September 2012) <<https://www.irishtimes.com/news/crime-and-law/lack-of-dna-database-is-a-national-disgrace-1.532180>> accessed 31 July 2025; Ruadhán Mac Cormaic, ‘Reworked DNA Bill Seeks Balance between Privacy and Better Crime Detection’ *The Irish Times* (Dublin, 12 September 2013) <<https://www.irishtimes.com/news/ireland/irish-news/reworked-dna-bill-seeks-balance-between-privacy-and-better-crime-detection-1.1524274>> accessed 31 July 2025; David Langwallner, ‘DNA Database Is Welcome but It Will Need Safeguards’ *Irish Independent* (Dublin, 9 September 2013); Ali Bracken, ‘Garda Anger as “vital” DNA Database Is Stalled Again’ *Irish Daily Mail* (Dublin, 24 April 2013); David Langwallner, ‘Any Irish DNA Bill Must Address Privacy Issues’ *Sunday Business Post* (Dublin, 2 December 2012).

Data protection rules emerged largely as a response to concerns regarding increased data processing in the 1960s. This led to the early enactment of data protection legislation in Sweden and Germany and the adoption of non-binding recommendations by the Organization for Economic Cooperation and Development (OECD) in 1980.⁵⁶ The OECD recommendations laid down seven principles for the protection of personal data: 1. Notice, 2. Purpose, 3. Consent, 4. Security, 5. Disclosure, 6. Access, 7. Accountability.⁵⁷ The following year, Convention No 108, containing ‘many of the rights, obligations and safeguards that are still visible in the EU’s current regime’,⁵⁸ became the first legally binding international instrument on data protection. As of July 2025, 55 states have ratified the Convention, including a number of non-European states.⁵⁹ In reference to the German Data Protection Act in 1980, Michael Keating TD was reported in the *Evening Herald* as remarking that there was not ‘even enough public awareness [of data protection rights in Ireland] to have a group lobbying for such rights’.⁶⁰ The first Irish data protection statute, the Data Protection Act 1988, was designed to enable ratification of Convention 108.⁶¹ According to Clark, the Act was seen as an important part of efforts to develop an International Financial Services Centre in Dublin which would have been impeded if data transfers to Dublin were blocked by foreign authorities.⁶² Harmonisation of data protection laws is very important for the facilitation of data transfers and increased harmonisation was the driving motivation for the EU adoption of the Data Protection Directive in 1995.⁶³ This subsequently led to Ireland’s passage of the Data Protection (Amendment) Act 2003, which has since been largely superseded in its effects by the General Data Protection Regulation (GDPR).

Since the Lisbon Treaty came into effect in 2009, EU membership has also provided the Irish public with protections under Articles 7 and 8 of the Charter of Fundamental Rights, which enjoys status as primary law.⁶⁴ While the scope of application of the CFR is limited to when Member States are implementing EU law, this has been conceived broadly by the CJEU to include matters ‘within the scope of application of EU law’.⁶⁵ The landmark CJEU case of *Digital Rights Ireland*, which resulted from an Irish request for a preliminary ruling, illustrates the relevance of the CFR for the protection of privacy and data protection. In the ruling, the Grand Chamber found the EU Data Retention Directive to disproportionately interfere with Articles 7 and 8 of the Charter.⁶⁶ This ruling had global implications for privacy and data

⁵⁶ Datalagen (Data Act), SFS 1973:289; Hessisches Datenschutzgesetz (Data Protection Act of the State of Hesse) vom 7-Oktober 1970; Eleni Kosta, *Consent in European Data Protection Law* (Martinus Nijhoff Publishers 2013) 13; Kennedy and Murphy (n 11) 97–98.

⁵⁷ Recommendations of the Council Concerning Guidelines Governing the Protection of Privacy and Trans-Border Flows of Personal Data.

⁵⁸ Serge Gutwirth and others, *European Data Protection: Coming of Age* (Springer 2012) 61.

⁵⁹ In addition to the Council of Europe Members, Convention No 108 has been signed by Argentina, Cabo Verde, Mauritius, Mexico, Morocco, Russia, Senegal, Tunisia, and Uruguay, ‘Chart of Signatures and Ratifications of Treaty 108’ (*Treaty Office*) <<https://www.coe.int/en/web/conventions/full-list>> accessed 31 July 2025.

⁶⁰ Eoin Rigney, ‘Why We Must Keep a Watch on Little Brother’ *Evening Herald* (Dublin, 5 February 1980) 8. Context added by author.

⁶¹ Robert Clark, ‘Data Protection in the Republic of Ireland’ (1997) 11 *International Review of Law, Computers & Technology* 203, 204.

⁶² *ibid.*

⁶³ Directive 95/46/EC on the protection of individuals with regard to the processing of personal data and on the free movement of such data.

⁶⁴ See also art 16 TFEU, referenced above. Unlike rulings of the ECtHR, EU law is granted supremacy in Irish law under art 29 of the Constitution and s 2 of the 1972 Act: De Búrca (n 46) 59.

⁶⁵ CFR, art 51; De Búrca (n 46) 52–53; Case C–617/10 *Åklagaren v Hans Åkerberg Fransson* EU:C:2013:105, 19–22.

⁶⁶ *Digital Rights Ireland*, 69.

protection, and after significant delay by successive governments,⁶⁷ the findings in *Digital Rights Ireland*⁶⁸ eventually led to data retention reform in Ireland.⁶⁹ Even though the need for reform had been clear for several years,⁷⁰ the Communications (Retention of Data) (Amendment) Act 2022 was billed as ‘urgent’ following the preliminary ruling of the CJEU in another case initiated in Ireland, *GD v Commissioner of An Garda Síochána*.⁷¹ The disturbing facts behind the *GD* ruling (involving a brutal murder) captured widespread media interest and spurred public debate on the implications of privacy protection.⁷² Media discussions varied; some depicted privacy as merely a legal technicality benefiting wrongdoers,⁷³ while others

⁶⁷ In a report on the issue in 2017, the then Chief Justice John Murray clearly stated the need to reform the Communications (Retention of Data) Act 2011: John Murray, Review of the Law on the Retention of and Access to Communications Data (Department of Justice and Equality 2017) 44–45 <independentexaminer.ie/wp-content/uploads/2025/02/236667_a01fdf60-6d1c-43cb-be6b-9440b8d36d6f-3.pdf> accessed 24 November 2025; TJ McIntyre and Maria Helen Murphy, ‘Accessing Digital Evidence in Criminal Matters: An Inadequate Irish Legal Framework’ in Vanessa Franssen and Stanislaw Tosza (eds), *Digital Evidence and the Cooperation of Service Providers in EU Criminal Investigations* (Cambridge University Press 2025).

⁶⁸ And several subsequent rulings including Case C-140/20 *GD v Commissioner of An Garda Síochána* EU:C:2022:258.

⁶⁹ The Communications (Retention of Data) (Amendment) Act 2022. On introducing the new law, the Minister for Justice noted plans for ‘wider reforms and a more consolidated legal framework in this area’. ‘New Mechanisms to Retain Data to Protect National Security and Tackle Serious Crime under Draft Bill Published by Minister McEntee’ (21 June 2022) <<https://www.gov.ie/en/press-release/81db4-new-mechanisms-to-retain-data-to-protect-national-security-and-tackle-serious-crime-under-draft-bill-published-by-minister-mcentee/>> accessed 31 July 2025. The current legal status of the Act remains open to question. McIntyre and Murphy (n 67).

⁷⁰ See, for example, Murphy, ‘Data Retention in the Aftermath of Digital Rights Ireland and Seitlinger’ (n 51).

⁷¹ McIntyre and Murphy (n 67); Mary Carolan, ‘New Law to “Fix” Impact of Graham Dwyer’s Phone-Data Case “Could Face Legal Challenge”’ *The Irish Times* (Dublin, 7 March 2023) <<https://www.irishtimes.com/crime-law/2023/03/07/new-law-to-fix-impact-of-graham-dwyers-phone-data-case-could-face-legal-challenge/>> accessed 31 July 2025.

⁷² Paul Williams, ‘The Prospect of Elaine O’Hara’s Sadistic Killer Walking Free on a Technicality Would Be a Travesty of Justice’ *Irish Independent* (Dublin, 23 March 2023) <<https://www.independent.ie/irish-news/crime/the-prospect-of-elaine-oharas-sadistic-killer-graham-dwyer-walking-free-on-a-technicality-would-be-a-travesty-of-justice/41523419.html>> accessed 31 January 2025; ‘Privacy at What Cost? Consequences of the High Court’s Judgment In ...’ (*Mason Hayes Curran*) <<https://www.mhc.ie/latest/insights/privacy-at-what-cost-consequences-of-the-high-courts-judgment-in-the-graham-dwyer-case>> accessed 31 July 2025; Pat Flanagan, ‘Deranged Sex Killer Graham Dwyer Could Be Released This Year under EU Law’ *Irish Mirror* (Dublin, 29 January 2021) <<https://www.irishmirror.ie/news/irish-news/crime/deranged-sex-killer-graham-dwyer-23408548>> accessed 31 July 2025; RTÉ Radio, ‘Interview with Professor Róisín Costello, School of Law and Government, DCU, Dr Pat Leahy, Former Assistant Garda Commissioner, Liam Herrick, Executive Director, ICCL, Graham Dwyer – European Courts of Justice Ruling’ (*Today with Claire Byrne*, 5 April 2022) <<https://www.rte.ie/radio/radio1/clips/22081906/>> accessed 31 July 2025; Olivia Kelleher, ‘Graham Dwyer Ruling Hampers Garda Investigations, Says Former Commissioner’ (*BreakingNews.ie*, 5 April 2022) <<https://www.breakingnews.ie/ireland/graham-dwyer-ruling-hampers-garda-investigations-says-former-commissioner-1285021.html>> accessed 31 July 2025; Conor Lally, ‘Graham Dwyer Ruling Will Force Criminal Investigation to “Reinvent Itself”’ *The Irish Times* (Dublin, 5 April 2022) <<https://www.irishtimes.com/news/crime-and-law/graham-dwyer-ruling-will-force-criminal-investigation-to-reinvent-itself-1.4845482>> accessed 31 July 2025; Mary Carolan and Conor Lally, ‘Graham Dwyer Case: State Knew of Data Law Problems for Years, Expert Says’ *The Irish Times* (Dublin, 19 November 2021) <<https://www.irishtimes.com/news/crime-and-law/graham-dwyer-case-state-knew-of-data-law-problems-for-years-expert-says-1.4732759>> accessed 31 January 2025; Cianan Brennan, ‘Notorious Killer Graham Dwyer Sees His Last Hope for Freedom Extinguished’ *Irish Examiner* (Cork, 31 July 2024) <<https://www.irishexaminer.com/news/courtandcrime/arid-41447641.html>> accessed 31 July 2025.

⁷³ Consider, for example: ‘When one strips away the legal jargon wrapped around this judgment, it means one thing – the right to privacy of the perpetrators of serious crimes takes precedence over the rights of the victims whose lives they destroy’: Williams (n 72).

criticised the government's prolonged resistance to reform as casting doubt on the legitimacy of the initial conviction.⁷⁴

Due to the manner in which privacy and data protection rights interact with other public interests, the media depiction of these rights plays a crucial role in shaping public perception. As legal protections have broadened and deepened, so too has public understanding. This is particularly evident in the context of data protection law, where in spite of being a part of Irish statute law for over 35 years, awareness has grown rapidly. Over the last 10–15 years, data protection has shifted from an administrative and technical concern to a topic garnering significant mainstream media attention in Ireland. In 2012, Castlebridge reported that the Irish media's coverage of data protection issues had 'more than doubled' since 2010.⁷⁵ Subsequent events that fostered further coverage include the Snowden revelations,⁷⁶ the passage of the GDPR,⁷⁷ and several high-profile rulings of the CJEU.⁷⁸ *The Guardian* reported in June 2018 that the 'first month of GDPR has seen a sharp increase in the number of complaints to regulators across Europe, showing strong public interest in the new rules'.⁷⁹ Increased awareness of the GDPR was reported as leading to more complex queries and complaints by the Irish Data Protection Commission in 2018. This was deemed to be attributable 'at least in part, to the high public profile afforded to data protection matters both pre- and post-GDPR'.⁸⁰ Two years following the application of the GDPR, the Irish DPC noted that the prominence and public awareness of data protection had 'grown exponentially' and was now a 'firmly fixed point of public consciousness'.⁸¹

The increase in awareness of data protection law inspired by the GDPR may not have seemed entirely in proportion to the material changes to the law as many of the same principles and

⁷⁴ Carolan and Lally (n 72). Efforts to overturn the conviction were unsuccessful and the Supreme Court affirmed Graham Dwyer's conviction for murder: Brennan (n 72).

⁷⁵ 'Data Protection: The Growing Media Spotlight' (Castlebridge 2012) <<https://castlebridge.ie/product/data-protection-the-growing-media-spotlight/>> accessed 31 July 2025.

⁷⁶ Andrea Peterson, 'Edward Snowden, Celebrity?' *Washington Post* (Washington DC, 7 March 2014) <<https://www.washingtonpost.com/news/the-switch/wp/2014/03/07/edward-snowden-celebrity/>> accessed 31 July 2025. Maria Helen Murphy, 'The Pendulum Effect: Comparisons between the Snowden Revelations and the Church Committee. What Are the Potential Implications for Europe?' (2014) 23 *Information & Communications Technology Law* 192; Simon Shuster, 'EU Pushes for Stricter Data Protection After Snowden's NSA Revelations' (*Time*, 21 October 2013) <<https://world.time.com/2013/10/21/e-u-pushes-for-stricter-data-protection-after-snowden-nsa-revelations/>> accessed 31 July 2025.

⁷⁷ Data Protection Commission, 'Annual Report 25 May–31 December 2018' 43 <<https://www.dataprotection.ie/sites/default/files/uploads/2019-02/DPC%20Annual%20Report%2025%20May%20-%2031%20December%202018.pdf>> accessed 31 July 2025.

⁷⁸ Joined Cases C–293/12 and C–594/12 *Digital Rights Ireland Ltd v Minister for Communications, Marine and Natural Resources and Others and Kärntner Landesregierung and Others* EU:C:2014:238; Case C–131/12 *Google Spain SL and Google Inc v Agencia Española de Protección de Datos (AEPD) and Mario Costeja González* ECLI:EU:C:2014:317; Case C–362/14 *Maximillian Schrems v Data Protection Commissioner* EU:C:2015:650; Case C–311/18 *Data Protection Commissioner v Facebook Ireland Limited and Maximilian Schrems* EU:C:2020:559.

⁷⁹ Alex Hern, 'European Regulators Report Sharp Rise in Complaints after GDPR' *The Guardian* (London, 26 June 2018) <<https://www.theguardian.com/technology/2018/jun/26/european-regulators-report-sharp-rise-in-complaints-after-gdpr>> accessed 31 July 2025. Examples reported included the French CNIL noting a 50 per cent increase in complaints, the UK's Information Commissioner's Office noting a rise in complaints as well as an increase in organisations making data breach notifications, and the Austrian data protection authority noting that the first month of the GDPR had seen the equivalent of eight months of complaints.

⁸⁰ Data Protection Commission (n 77) 43.

⁸¹ Data Protection Commission, 'DPC Ireland 2018-2020: Regulatory Activity Under GDPR' (2020) 5 <<https://www.dataprotection.ie/sites/default/files/uploads/2020-06/DPC%20Ireland%202018-2020%20Regulatory%20Activity%20Under.pdf>> accessed 31 July 2025.

rights were retained from the 1995 Data Protection Directive, but the introduction of large administrative fines catalysed many companies and institutions into action and prompted GDPR training for staff.⁸² Moreover, the flood of emails seeking ‘consent’ that many received in advance of the GDPR’s legal application – and media discussion of this practice – brought the law’s existence to the attention of many who it otherwise may have passed by.⁸³ It might also be postulated that Ireland’s role as the European headquarters of many large technology multinationals leads to a particularly high level of interest among the Irish media, particularly in the context of covering CJEU cases initiated in Ireland.⁸⁴

Increased awareness of data protection rights and obligations did not always translate to positive representations of the law in the media. As illustrated by the consent emails referenced above, much negative coverage of the GDPR roll-out considered the manner in which the law was being interpreted (whether correctly or not) and the resulting bureaucratic implications for data subjects and the new compliance hurdles facing controllers.⁸⁵ Irish media consumers also faced ‘media blackouts’ from certain international outlets disinclined to accept GDPR obligations associated with visitors to their websites from the EU.⁸⁶ Further coverage discussed the resources required by the Irish Data Protection Commission to adequately enforce the new law as the lead supervisory authority of many of the largest technology companies.⁸⁷ While acknowledging the significant cost implications of being the de facto ‘big tech watchdog’ for Europe, this was represented as coming hand-in-hand with the presence of so many

⁸² ‘GDPR: “Don’t Panic!” Data Watchdog Tells Firms’ (*BBC News*, 24 May 2018) <<https://www.bbc.com/news/business-44208456>> accessed 31 July 2025; Patricia Nilsson, ‘Untidy Desks May Be a GDPR Risk’ *Financial Times* (3 July 2018) <<https://www.ft.com/content/4f51f064-73bb-11e8-b6ad-3823e4384287>> accessed 31 July 2025; Laura Anthony, ‘It’s Getting Personal: Potential GDPR Breach For Employees who Check Work Emails on Personal Mobiles Out of the Office’ (*Mondaq*, 17 December 2018) <<https://www.mondaq.com/uk/data-protection/764624/its-getting-personal-potential-gdpr-breach-for-employees-who-check-work-emails-on-personal-mobiles-out-of-the-office>> accessed 31 July 2025.

⁸³ Alex Hern, ‘Most GDPR Emails Unnecessary and Some Illegal, Say Experts’ *The Guardian* (London, 21 May 2018) <<https://www.theguardian.com/technology/2018/may/21/gdpr-emails-mostly-unnecessary-and-in-some-cases-illegal-say-experts>> accessed 31 July 2025; Brian X Chen, ‘Getting a Flood of G.D.P.R.-Related Privacy Policy Updates? Read Them’ *The New York Times* (New York, 23 May 2018) <<https://www.nytimes.com/2018/05/23/technology/personaltech/what-you-should-look-for-europe-data-law.html>> accessed 31 July 2025; Matt Burgess, ‘GDPR Isn’t to Blame for All Those Dumb Emails You’re Getting’ (*Wired UK*, 11 May 2018) <<https://www.wired.co.uk/article/pecr-gdpr-emails>> accessed 31 July 2025.

⁸⁴ This high level of interest brings with it increased attention on the Data Protection Commission and its ‘regulatory activities in the realm of “big tech”’: Data Protection Commission (n 77) 5.

⁸⁵ Michelle McBride, ‘Sound off: The Dreaded GDPR Emails’ *The Irish Times* (Dublin, 4 August 2018) <<https://www.irishtimes.com/life-and-style/people/sound-off-the-dreaded-gdpr-emails-1.3577180>> accessed 31 July 2025; ‘People Warned to Be Aware of Bogus GDPR Emails’ (*RTÉ News*, 23 May 2018) <<https://www.rte.ie/news/ireland/2018/0523/965513-gdpr/>> accessed 31 July 2025; Elaine Edwards, ‘GDPR Just a Day Away: Everything You Need to Know’ *The Irish Times* (Dublin, 24 May 2018) <<https://www.irishtimes.com/business/technology/gdpr-just-a-day-away-everything-you-need-to-know-1.3504621>> accessed 31 July 2025; Mary Sanford and Taha Yasseri, ‘The Kaleidoscope of Privacy: Differences across French, German, UK, and US GDPR Media Discourse’ (*arXiv*, 31 March 2021) <<http://arxiv.org/abs/2104.04074>> accessed 31 July 2025.

⁸⁶ ‘EU Users Blocked from Some US News Sites after Data Laws Come into Effect’ *Irish Examiner* (Cork, 25 May 2018) <<https://www.irishexaminer.com/world/arid-30845076.html>> accessed 31 July 2025; ‘Some US News Websites Have Been Blocked by the New EU Data Law’ (*TheJournal.ie*, 25 May 2018) <<https://www.thejournal.ie/gdpr-news-websites-4034471-May2018/>> accessed 31 July 2025.

⁸⁷ Simon Carswell, ‘Fit for Purpose? Can the Data Regulator Handle GDPR?’ *The Irish Times* (Dublin, 25 May 2018) <<https://www.irishtimes.com/business/technology/fit-for-purpose-can-the-data-regulator-handle-gdpr-1.3507144>> accessed 31 July 2025; Ken Foxe, ‘Revealed: Data Protection Commission’s Pleas for More Staff and “Fit-for-Purpose” Office’ (*TheJournal.ie*, 12 October 2019) <<https://www.thejournal.ie/data-protection-budget-4848807-Oct2019/>> accessed 31 July 2025; Cianan Brennan and Daniel McConnell, ‘Cianan Brennan: Dixon Determined to Face All Challenges’ *Irish Examiner* (Cork, 20 February 2020) <<https://www.irishexaminer.com/opinion/commentanalysis/arid-30982811.html>> accessed 31 July 2025.

headquarters in Ireland in order to ensure credibility at the EU level.⁸⁸ According to a Eurobarometer survey in 2019, 78 per cent of Irish respondents had heard of the GDPR, and 50 per cent of Irish respondents understood ‘what it is’.⁸⁹ In the same study, Irish respondents were found to have the joint highest awareness in the EU of which national authority is responsible for enforcing the GDPR (28 per cent).⁹⁰ Focus groups organised by the DPC in 2018 found that while the participants were ‘broadly aware of their rights’ under the GDPR and ‘keen to know how to exercise them’, many participants felt ‘confused’ about their practical application.⁹¹

Due to the development of a Constitutional right to privacy in Ireland, privacy as a fundamental right is not a foreign concept to the Irish public or the Irish media. The increased awareness across Europe, inspired by the GDPR, is significant but Ireland’s initiating role in several high-profile CJEU rulings on privacy and data protection has led to particularly intense media coverage of these topics. This section has outlined notable instances of Irish media coverage, revealing some tension between privacy rights and public interests. As this article seeks to explore these dynamics further, the Covid-19 crisis provides an ideal case study to examine the representation of privacy and data protection by the media.

3. Research Approach

The representation of privacy and data protection as fundamental rights in times of crisis involves the appreciation of a complex legal landscape and nuanced societal considerations. As discussed above, it was deemed most appropriate to focus on newspaper coverage, which tends to provide more in-depth discussion of such topics compared to other media. In order to collect a relevant sample of articles to analyse, LexisNexis was used. While LexisNexis does not provide a fully comprehensive collection of all relevant articles, it is a structured database that provides extensive access to articles from a wide range of Irish publications.⁹² The articles

⁸⁸ *ibid.*

⁸⁹ European Commission, Directorate General for Justice and Consumers, and Kantar, *The General Data Protection Regulation: Report* (Publications Office 2019) 8 <<https://data.europa.eu/doi/10.2838/43726>> accessed 31 July 2025.

⁹⁰ Along with Latvia: *ibid* 12.

⁹¹ Data Protection Commission, ‘Annual Report 1 January–31 December 2019’ (2020) 7 <<https://www.dataprotection.ie/sites/default/files/uploads/2020-04/DPC%20Annual%20Report%202019.pdf>> accessed 31 July 2025.

⁹² Up-to-date access on LexisNexis includes articles from the *Irish Daily Mail*, the *Irish Examiner*, the *Irish Independent*, *The Irish Mail on Sunday*, *The Irish News*, *The Irish Times*, the *Irish Mirror*, and the *Belfast Telegraph*. Each of the aforementioned publications contains an information note that ‘access to certain freelance articles and other features within this publication (i.e. photographs, classifieds, etc ...) may not be available’. While the collection of articles is extensive, and includes many freelance articles and comment pieces, it is not fully comprehensive. For example, a newswire piece from Bloomberg of relevance to this project was published in the *Irish Times* in April 2020 but does not appear in LexisNexis searches. Bloomberg, ‘Mobile Data Used by European Authorities to Monitor Covid-19 Spread’ *The Irish Times* (Dublin, 23 April 2020) <<https://www.irishtimes.com/business/technology/mobile-data-used-by-european-authorities-to-monitor-covid-19-spread-1.4235882>> accessed 31 July 2025. To mitigate this, the author supplemented the LexisNexis analysis with external searches, particularly in relation to the *Irish Times* due to the additional focus on the newspaper’s coverage in this project. For example, the author replicated searches of the *Irish Times* archive to mitigate the risk of excluding relevant articles and to ensure that additional articles could be reviewed and incorporated into the broader analysis. To ensure methodological consistency, any additional articles were not included in the quantitative analysis of the LexisNexis identified articles but were used in the general analysis to contextualise and validate the findings from the LexisNexis identified articles. It should be noted that some article headlines (and some publication dates) were different in the LexisNexis database than in the online version of the article. For example, Lillington’s 9 April 2020 article had the headline, ‘Infection Tracker Apps Could Have Serious Side-Effects’ in the LexisNexis database, but it was published online as Karlin Lillington, ‘Why We Should Be Slow

are full-text searchable and readily downloadable in PDF form. The starting point of the study was set as January 2020 to capture early coverage of the pandemic in Europe, coinciding with the first reported case in France that month.⁹³

The search string used was:

(‘data protection’ OR ‘privacy’) AND (‘Covid-19’ OR ‘coronavirus’).

On coverage from January 2020 until March 2023, the *Irish Times* emerged as the Irish newspaper with the most search hits, followed by the *Irish Examiner*, the *Irish Independent*, the *Irish Daily Mail*, and the *Belfast Telegraph*.⁹⁴

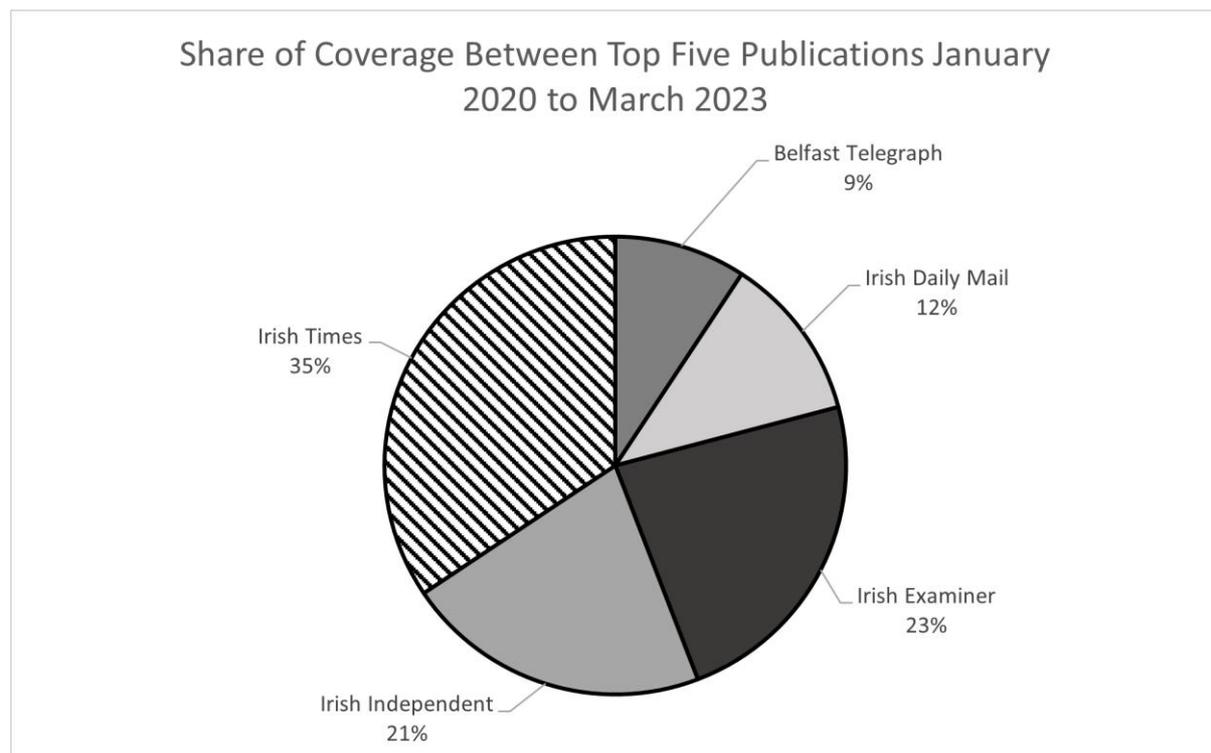


Figure 1: Share of Coverage Between Top Five Publications

While reporting on the spread of a novel coronavirus began to be seen from January 2020,⁹⁵ the earliest reporting that hinted towards the potential privacy issues associated with a data-driven approach to the public health crisis began in February. Balance between the risk of privacy harms and the benefits of data use was an early theme of coverage with an article published in the *Irish Independent* in February 2020 noting the potential role of data collection

to Use Tracking Apps in Coronavirus Response’ *The Irish Times* (Dublin, 9 April 2020) <<https://www.irishtimes.com/business/technology/why-we-should-be-slow-to-use-tracking-apps-in-coronavirus-response-1.4224320>> accessed 31 January 2025. Where this occurs the online title is used for citation purposes in this article.

⁹³ Gianfranco Spiteri and others, ‘First Cases of Coronavirus Disease 2019 (COVID-19) in the WHO European Region, 24 January to 21 February 2020’ (2020) 25(9) *Euro Surveillance* 2000178.

⁹⁴ 1,145 results are found from Irish newspapers, with *The Irish Times* having the most hits (329), followed by the *Irish Examiner* (222), the *Irish Independent* (204), the *Irish Daily Mail* (111), and the *Belfast Telegraph* (88) [search conducted 27 March 2023].

⁹⁵ Muiris Houston, ‘Could Coronavirus Become a Sars-like Illness?’ *The Irish Times* (Dublin, 21 January 2020) <<https://www.irishtimes.com/news/health/could-coronavirus-become-a-sars-like-illness-1.4146629>> accessed 31 July 2025.

in tackling pandemics but also recognising the fear people may have of ‘data being used against [them]’.⁹⁶

Figure 2 below shows a clear decline in coverage over time across all publications, reflecting a gradual decline in interest in topics related to privacy and or data protection in the context of Covid-19. The initial stage of the pandemic, with the associated fears, potential for public panic, and need for rapid action, is the focus of this study. As noted above, the *Irish Times* had the highest number of hits using the specified search string. While its coverage of the topic fluctuated over time, the publication consistently provided a high level of coverage compared to the other top five publications, particularly during the early emergency phase of the pandemic.

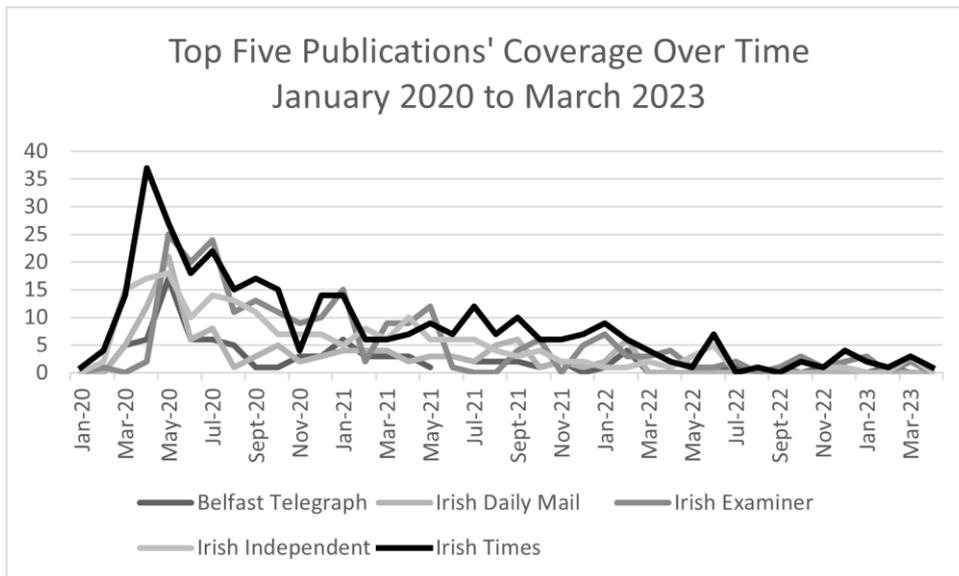


Figure 2: Top Five Publications' Coverage Over Time

A narrower time range for close analysis, focusing on the first year of the pandemic, was originally considered, but a decision was made to widen the time range to consider articles from January 2020 to July 2021. July 2021 was the last month in which the *Irish Times* had more than 10 search hits using the relevant search terms. By extending the time range considered to July 2021, any coverage that considered the development and launch of the EU Digital COVID Certificate is also captured. Ireland adapted the EU Digital COVID certificate to be used domestically in order to manage access to certain services, including restaurants and pubs.⁹⁷

The *Irish Times* had 249 search-term hits during the selected time period.⁹⁸ Each of these articles was read in full by the author and screened for relevance. An article was retained only if it contained an explicit discussion, beyond a passing reference, linking privacy or data

⁹⁶ The article referenced how 10,000 people in the UK had volunteered to download a location-tracking application and submitted significant personal information in order to inform research on flu pandemics. Regina Lavelle, ‘The Spy Within: Algorithms and How They Affect Us for Good, and Evil’ *Irish Independent* (Dublin, 29 February 2020) <<https://www.independent.ie/irish-news/the-spy-within-algorithms-and-how-they-affect-us-for-good-and-evil/38997393.html>> accessed 31 July 2025. The *Irish Independent* article notes how ‘Contagion! The BBC Four Pandemic – The Model Behind the Documentary’ illustrates how algorithms can be harnessed to ‘save lives, enhance systems and improve medicine. But only if they have data.’ Petra Klepac, Stephen Kissler, and Julia Gog, ‘Contagion! The BBC Four Pandemic – The Model behind the Documentary’ (24 Epidemics, 2018) 49.

⁹⁷ Pat Leahy, ‘Martin Says Ireland Will Begin Operating European Digital Pass by July 19th’ *The Irish Times* (Dublin, 5 July 2021) <<https://www.irishtimes.com/news/politics/martin-says-ireland-will-begin-operating-european-digital-pass-by-july-19th-1.4612215>> accessed 31 July 2025.

⁹⁸ The search was repeated on 29 July 2025 using identical parameters and again resulted in 249 results.

protection to a Covid-19 response or consequence. Following this process, 133 out of 249 articles (53 per cent)⁹⁹ were identified as relevant to this project. An inclusive approach was taken when determining whether an article should be retained for closer analysis, with the determining factor being whether the article addressed privacy and/or data protection issues specifically in the context of the Covid-19 pandemic or responses to the public health crisis. Articles were excluded as irrelevant where the use of the relevant search terms ('privacy' OR 'data protection') was unconnected to the questions at the core of the research. Due to the massive impact of the pandemic on many aspects of private and public life during the acute stages of the crisis, the terms ('Covid-19' OR 'coronavirus') were used frequently in a large variety of articles. Accordingly, many articles that included the elements of the search string ('privacy' OR 'data protection') in a tangential manner were caught in the initial search of the LexisNexis database. For example, numerous articles related to real estate noted the privacy of the dwelling while also referencing the pandemic in other unrelated parts of the article.¹⁰⁰ Other examples of articles deemed irrelevant to this study include coverage of TikTok's planned expansion of its Dublin operations during the Covid-19 pandemic, which noted the tech company's intention to add a data privacy division to its Irish team,¹⁰¹ and a report on popular postgraduate courses that referenced the availability of 'privacy and the law' as an optional module.¹⁰²

Only articles marked as relevant on screening were fully analysed and coded. As no second coder was available, all coding was performed independently by the author.¹⁰³ The absence of

⁹⁹ Rounded percentage.

¹⁰⁰ One property article noted that 'Covid-19 made many decide to return' to Ireland and separately praised the property's 'high walls giving privacy and protection from sea winds'. 'Studs, Cottages, Fairytale Escapes: Our Favourite Houses in 2020' *The Irish Times* (Dublin, 17 December 2020) <<https://www.irishtimes.com/life-and-style/homes-and-property/studs-cottages-fairytale-escapes-our-favourite-houses-in-2020-1.4437288>> accessed 31 July 2025. Another article stated that the coronavirus had 'forced everyone to rethink how they work, live and spend their leisure time' and also noted that the property had 'absolute privacy from passing golfers'. Elizabeth Birdthistle, 'K Club Mansion with Private Jetty and Sporting Pedigree for €2.75m' *The Irish Times* (Dublin, 10 September 2020) <<https://www.irishtimes.com/life-and-style/homes-and-property/new-to-market/k-club-mansion-with-private-jetty-and-sporting-pedigree-for-2-75m-1.4348648>> accessed 31 July 2025. For a similar example, see Elizabeth Birdthistle, 'The Dream-Home Designer of Matt Damon's Dalkey Lockdown Escape' *The Irish Times* (Dublin, 26 June 2020) <<https://www.irishtimes.com/life-and-style/homes-and-property/the-dream-home-designer-of-matt-damon-s-dalkey-lockdown-escape-1.4283494>> accessed 31 July 2025..

¹⁰¹ Ronald Quinlan, 'TikTok Weighs Plan for up to 5,000 Workers in Dublin Offices' *The Irish Times* (Dublin, 17 September 2020) <<https://www.irishtimes.com/business/commercial-property/tiktok-weighs-plan-for-up-to-5-000-workers-in-dublin-offices-1.4357381>> accessed 17 September 2020.

¹⁰² Peter McGuire, 'Postgrad Options: Spotlight on Courses around the Country' *The Irish Times* (Dublin, 10 March 2020) <<https://www.irishtimes.com/news/education/postgrad-options-spotlight-on-courses-around-the-country-1.4184546>>.

¹⁰³ July 2021 cases were not initially considered during coding and were analysed subsequently. Of the July 2021 articles identified in LexisNexis, seven were found to be relevant, all classified under the topic 'Other Surveillance Related Topic Excluding Covid-19 App', which included coverage of the vaccine passports/EU Digital Covid Certificate'. Liam Herrick, 'Basic Rights and Covid: Rushed Law on Indoor Hospitality a Recipe for Disaster' *The Irish Times* (Dublin, 14 July 2021) <<https://www.irishtimes.com/opinion/basic-rights-and-covid-rushed-law-on-indoor-hospitality-a-recipe-for-disaster-1.4619478>> accessed 31 January 2025; Jack Horgan-Jones, 'Complexity of Covid Restrictions a Risk to Compliance, Ministers Warned' *The Irish Times* (Dublin, 22 July 2021) <<https://www.irishtimes.com/news/ireland/irish-news/complexity-of-covid-restrictions-a-risk-to-compliance-ministers-warned-1.4627066>> accessed 31 July 2025; Paul Cullen and Cormac McQuinn, 'Frontline Health Staff to Have to Disclose Vaccination Status If Asked' *The Irish Times* (Dublin, 12 July 2021) <<https://www.irishtimes.com/news/health/frontline-health-staff-to-have-to-disclose-vaccination-status-if-asked-1.4617539>> accessed 31 July 2025; Paul Cullen, 'HSE Allowed to Question Frontline Staff about Vaccine Status Following Data Commissioner Ruling' *The Irish Times* (Dublin, 12 July 2021) <<https://www.irishtimes.com/news/health/hse-allowed-to-question-frontline-staff-about-vaccine-status-following-data-commissioner-ruling-1.4617491>> accessed 31 July 2025; Jennifer Bray and others, 'Indoor

a second coder is a methodological limitation that was mitigated by adopting a reflective approach, note-taking, and repeated spot-checks against the codebook. Further details of the author's process are provided below.

The author engaged in a preliminary review of the articles where key events and topics of coverage were noted. From the very early stages of the pandemic, ambitious technological solutions (most prominently in the form of proposed Covid-19 tracking applications) were being discussed as potential solutions to the pandemic and as alternatives to the onerous restrictions the initial public health response imposed on the typical way of life. As a result, anticipatory privacy discussions and debates were common. The roll-out of Covid-19 tracking applications emerged as a prominent topic across all sources.

Following the preliminary review of articles, the author was able to develop a list of topics to be used in the in-depth review and classification of *Irish Times* articles as the key case study. A number of distinct topics emerged from the preliminary review of articles, specifically, articles covering the privacy implications of the Covid-19 tracking applications, articles considering the data protection implications of a shift to remote activity, and articles concerning media reporting and patient privacy.

There were also a number of articles that considered various surveillance-driven responses to the crisis distinct from tracking applications, such as temperature recording, analogue contact tracing, mass data collection and analysis, and vaccine passports.¹⁰⁴ While separate categories based on these discrete surveillance-driven responses were initially considered, once the dominance of the Covid-19 tracking application as a topic of coverage became clear, the author decided to use the umbrella category of 'Other Surveillance Related Topic Excluding Covid-19 App' to allow for comparisons with a more substantial collection of articles. Having already excluded irrelevant articles based on the relevance criteria set out above, every *Irish Times* article that remained in the data set was assigned to one category in accordance with the inclusion criteria detailed in the table below. The table sets out the approach used to categorise articles that met the inclusion criteria. The definitions ensure that each article was allocated to the most appropriate category and that the categories are mutually exclusive. While the author was working alone, they sought to ensure consistency by careful adherence to the category criteria and the making of notes where decisions at the boundary of the categories were made. Throughout the project, the author reviewed prior notes when making further boundary decisions. Once all articles were categorised, the author reviewed all category decisions to confirm consistency with the finalised category definitions. Further consistency spot checks

Dining: Draft Guidelines State All Adult Customers Must Provide Contact Details' *The Irish Times* (Dublin, 24 July 2021) <<https://www.irishtimes.com/news/ireland/irish-news/indoor-dining-draft-guidelines-state-all-adult-customers-must-provide-contact-details-1.4628501>> accessed 31 July 2025; Cormac McQuinn, 'Q&A: Vaccine Passes for Restaurants and Pubs' *The Irish Times* (Dublin, 30 June 2021) <<https://www.irishtimes.com/news/politics/q-a-vaccine-passes-for-restaurants-and-pubs-1.4607790>> accessed 31 July 2025; Jade Wilson, 'Rules and Regulations on the Menu as Indoor Dining Opens' *The Irish Times* (Dublin, 26 July 2021).

¹⁰⁴ See, for example, Nicole Liu and Alice Woodhouse, 'Hong Kong's Covid-19 Mass Testing Programme Reignites Tensions' *The Irish Times* (Dublin, 1 September 2020) <<https://www.irishtimes.com/news/world/asia-pacific/hong-kong-s-covid-19-mass-testing-programme-reignites-tensions-1.4343772>>; Michael Doyle, 'Vaccine Rollout Will Present Tricky Legal Issues for Employers' *The Irish Times* (Dublin, 17 January 2021) <<https://www.irishtimes.com/business/work/vaccine-rollout-will-present-tricky-legal-issues-for-employers-1.4460527>>; Cormac McQuinn, 'Q&A: Vaccine Passes for Restaurants and Pubs' *The Irish Times* (Dublin, 30 June 2021) <<https://www.irishtimes.com/news/politics/q-a-vaccine-passes-for-restaurants-and-pubs-1.4607790>>; 'The *Irish Times* View: The Next Steps for Companies' *The Irish Times* (Dublin, 27 April 2020) <<https://www.irishtimes.com/opinion/editorial/the-irish-times-view-the-next-steps-for-companies-1.4238536>>.

were performed during the writing and reviewing processes of the article. Additional details regarding the author’s process are set out below the table.

Topic Category	Definition	Classification note
‘Covid-19 App’	Articles where smartphone-enabled contact tracking or exposure notification applications were the only topic of relevance discussed	Where articles discuss tracking applications alongside other privacy or surveillance-related topics, categorise as ‘Mixed Including Covid-19 App’
‘Mixed Including Covid-19 App’ ¹⁰⁵	Articles where Covid-19 tracking applications were considered alongside at least one other privacy and/or data protection issue	Where articles are ‘mixed’ in topic, but do not consider the Covid-19 tracking application, categorise as ‘Other Surveillance Related Topic Excluding Covid-19 App’
‘Remote Activity Including Remote Working’	Articles where the privacy and data protection issues associated with increased remote activity were identified ¹⁰⁶	Where articles discuss increased remote activity in passing alongside other surveillance measures, categorise as ‘Other Surveillance Related Topic Excluding Covid-19 App’
‘Other Surveillance Related Topic Excluding Covid-19 App’	Articles which relate to the collection and analysis of data as part of the pandemic response in order to influence, manage, or control which did not discuss Covid-19 tracking applications	Where articles focus on remote activity surveillance, categorise under the specific ‘Remote Activity Including Remote Working’ category; where articles discuss Covid-19 tracking applications alongside other surveillance methods and privacy issues, categorise as ‘Mixed Including Covid-19 App’
‘Media Reporting and Patient Privacy’	Articles that reference the withholding of information relevant to the pandemic response due to privacy issues ¹⁰⁷	Essential to have media reporting aspect to article – absent that, categorise articles as ‘Other Surveillance Related Topic Excluding Covid-19 App’ or ‘Other

¹⁰⁵ Articles were classified under this topic where Covid-19 tracking applications were considered alongside other privacy and/or data protection issues.

¹⁰⁶ For example, an article that notes that remote monitoring tools may ‘seem like a godsend’ to employers, but also raises concerns around data protection and privacy. ‘The *Irish Times* View on Coronavirus Outbreak: Government’s Undue Caution’ *The Irish Times* (Dublin, 5 March 2020) <<https://www.irishtimes.com/opinion/editorial/the-irish-times-view-on-coronavirus-outbreak-government-s-undue-caution-1.4193129>> accessed 31 July 2025.

¹⁰⁷ For example, an article that references a Government decision not to publicise the name of a school with a Covid-19 outbreak and argues that ‘[r]umour and falsehoods will only thrive in an information vacuum or a context where Government is suspected of concealing or lying’.

¹⁰⁷ Dierdre Ahern, ‘Pandemic Has Opened a Vast Policy Vacuum’ *The Irish Times* (Dublin, 10 December 2020) <<https://www.irishtimes.com/opinion/pandemic-has-opened-a-vast-policy-vacuum-1.4432163>> accessed 31 July 2025.

		Relevant Topic' if insufficient surveillance element ¹⁰⁸
'Other Relevant Topic'	Articles of relevance but which fall outside the scope of all other categories ¹⁰⁹	Where articles can be placed in another, more specific category, categorise there

Due to the miscellany nature of the 'Other Relevant Topic' category, inclusions occurred on the basis of the article not being fully classifiable under the existing topics, but retaining relevance to the research. One example of an article that was determined best classified as 'Other Relevant Topic' highlighted some of the challenges that arise in the context of 'unprecedented emergency' where '[s]peed to act becomes a major driver' and 'drawn out consultation, drafting processes and impact assessments have to be sacrificed for a workable model that provides some level of certainty and comfort'.¹¹⁰ Another example that illustrates how the determinations were made based on the content of the article as opposed to a cursory noting of subject matter was an article on mandatory vaccination that was classified as 'Other Relevant Topic'. In spite of this research applying a broad definition of surveillance as focused attention to information about individuals, groups, or populations for purposes of 'influence, management, or control',¹¹¹ Fulham-McQuillan's article did not fall within that scope and as a result, was classified as 'Other Relevant Topic'.¹¹² While mandatory vaccination has clear implications for privacy and for data protection, and discussion of the need to record and authenticate vaccine status would fall within the remit of 'Other Surveillance Related Topic Excluding Covid-19 App', the article in question considered the effect such measures would have on the autonomy and bodily integrity aspects of privacy, as opposed to the information-centred aspects of such measures.¹¹³ Lacking a data-processing component, it was excluded from the surveillance category.

¹⁰⁸ Meaning of surveillance is drawn from the work of David Lyon and Gary T Marx, including David Lyon, 'Surveillance, Power, and Everyday Life' in Chrisanthi Avgerou and others (eds), *The Oxford Handbook of Information and Communication Technologies* (Oxford University Press 2009); Gary T Marx, 'What's New About the "New Surveillance"? Classifying for Change and Continuity' (2002) 1 *Surveillance & Society* 9, 10; David Lyon (ed), *Surveillance as Social Sorting: Privacy, Risk, and Digital Discrimination* (Routledge 2003).

¹⁰⁸ Dierdre Ahern, 'Pandemic Has Opened a Vast Policy Vacuum' *The Irish Times* (Dublin, 10 December 2020) <<https://www.irishtimes.com/opinion/pandemic-has-opened-a-vast-policy-vacuum-1.4432163>> accessed 31 July 2025.

¹⁰⁹ For example, an article that considered mandatory vaccination, but did not discuss the information or data protection aspects (discussed more below the table). Sarah Fulham-McQuillan, 'Strong Legal Basis for Making Covid-19 Vaccinations Mandatory' *The Irish Times* (Dublin, 11 April 2020) <<https://www.irishtimes.com/opinion/strong-legal-basis-for-making-covid-19-vaccinations-mandatory-1.4313941>> accessed 31 July 2025.

¹¹⁰ Dierdre Ahern, 'Pandemic Has Opened a Vast Policy Vacuum' *The Irish Times* (Dublin, 10 December 2020) <<https://www.irishtimes.com/opinion/pandemic-has-opened-a-vast-policy-vacuum-1.4432163>> accessed 31 July 2025.

¹¹¹ Drawing from the work of David Lyon and Gary T Marx, including: David Lyon, 'Surveillance, Power, and Everyday Life' in Chrisanthi Avgerou and others (eds), *The Oxford Handbook of Information and Communication Technologies* (Oxford University Press 2009); Gary T Marx, 'What's New About the "New Surveillance"? Classifying for Change and Continuity' (2002) 1 *Surveillance & Society* 9, 10; David Lyon (ed), *Surveillance as Social Sorting: Privacy, Risk, and Digital Discrimination* (Routledge 2003).

¹¹² Sarah Fulham-McQuillan, 'Strong Legal Basis for Making Covid-19 Vaccinations Mandatory' *The Irish Times* (Dublin, 11 April 2020) <<https://www.irishtimes.com/opinion/strong-legal-basis-for-making-covid-19-vaccinations-mandatory-1.4313941>> accessed 31 July 2025.

¹¹³ *ibid.*

Following full coding, coverage of Covid-19 tracking applications emerged as a particularly rich source for analysis. When the coverage classified as either ‘Covid-19 App’ or ‘Mixed Including Covid-19 App’ is combined, the share of coverage of Covid-19 tracking applications across all articles is 33 per cent. While the coverage falling under the topic ‘Other Surveillance Related Topic Excluding Covid-19 App’ has an equal share, it should be borne in mind that that topic groups a much wider array of topics and includes more general commentaries.

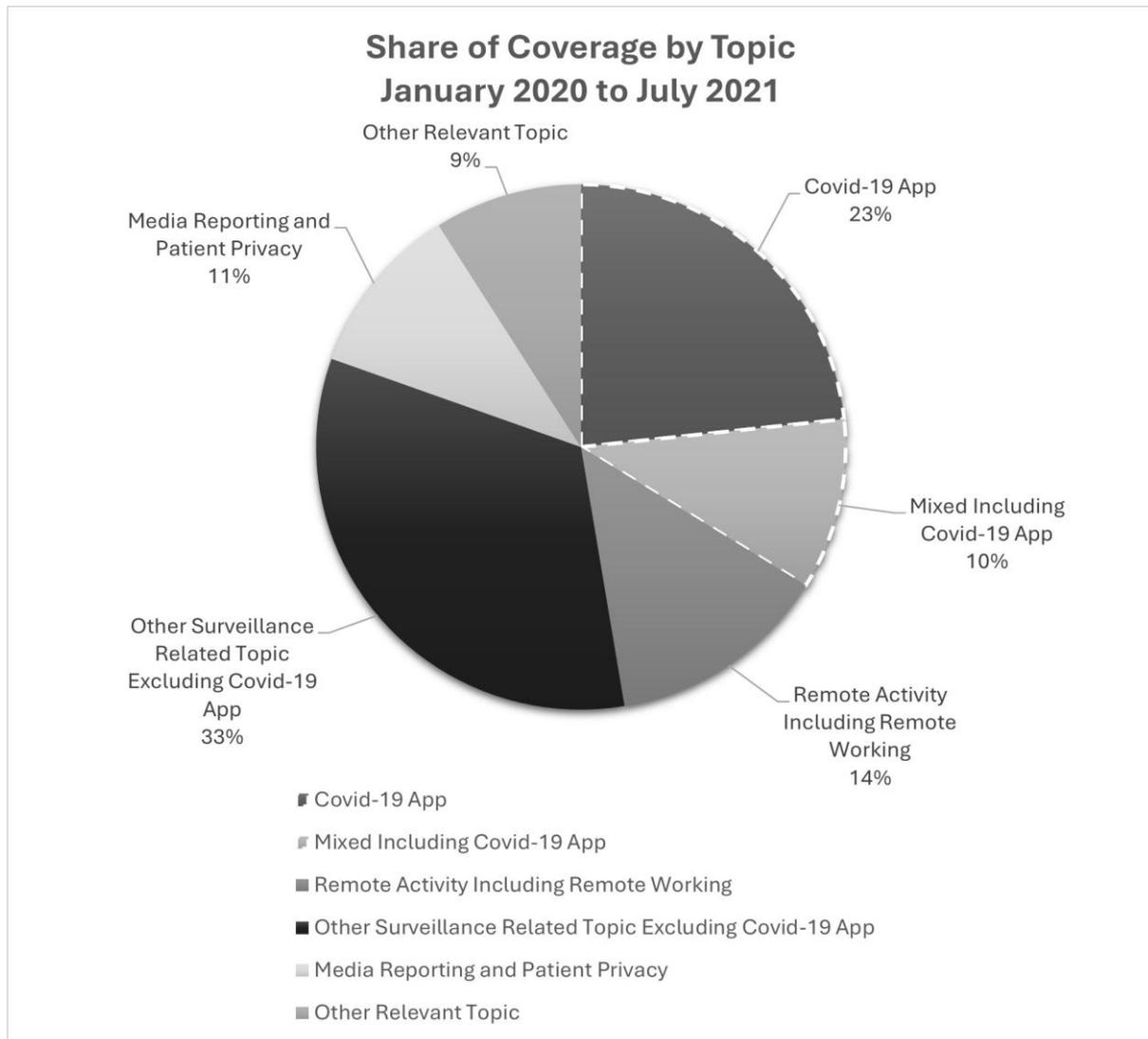


Figure 3: Share of Coverage by Topic

Focusing in on the coverage of Covid-19 tracking applications over time, as represented by the black line in Figure 4 below, we see that coverage begins quite early in the pandemic as the possibility of a technological tracking solution to managing the pandemic receives global attention. The topic sees a sharp rise from March to April 2020 where the privacy and data protection implications of such a solution receive greater attention and details of Ireland’s Covid-19 tracking application begin to emerge. Coverage reduces after April 2020 until a sharp rise can be observed from June to July, reflecting the launch of Ireland’s ‘Covid Tracker Ireland’ application on 7 July 2020. Coverage is very low or absent from August 2021 on.

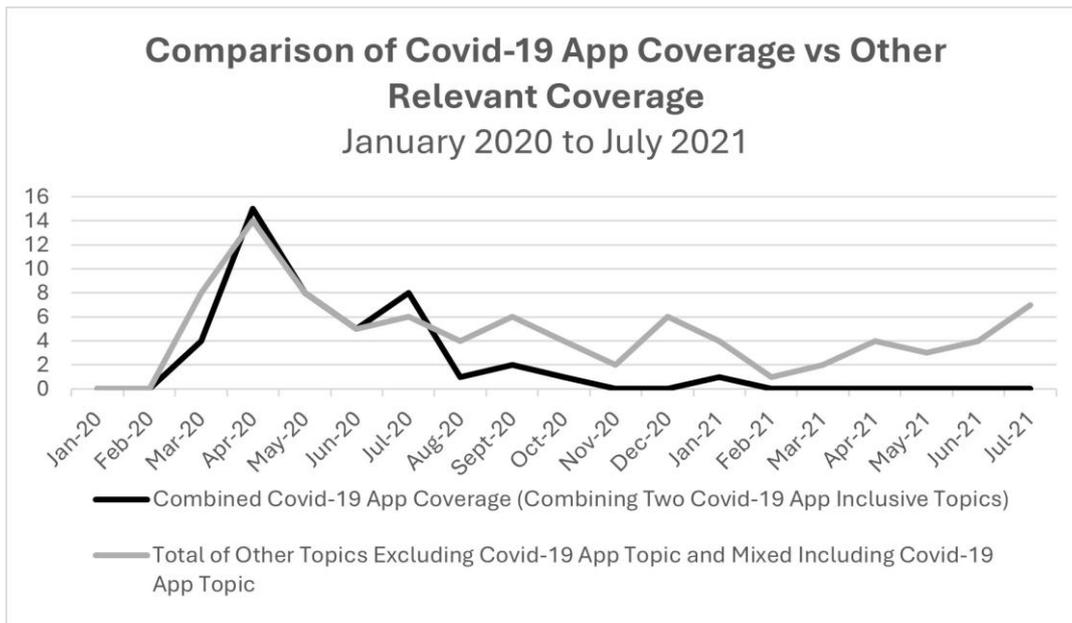


Figure 4: Comparison of Covid-19 App Coverage vs Other Relevant Coverage

Figure 4 shows that coverage of Covid-19 tracking applications rose at a similar rate to the combined coverage on all other matters related to data protection and/or privacy and Covid-19 from March 2020; with coverage of Covid-19 tracking applications peaking slightly higher than the combination of the four other topic classifications in April 2020.

There are compelling reasons to closely consider the coverage of Covid-19 tracking applications when exploring the media representation of data protection and privacy law in public health crises. While broader insights are gained from consideration of the wider collection of articles, a decision was made to focus on the coverage of Covid-19 tracking applications to provide a deeper and more nuanced exploration. The rapid development, advocacy, and widespread use of Covid-19 tracking applications in the early stages of the Covid-19 pandemic epitomised the global effort to mitigate the crisis through data-driven means. As the most highly covered technology during the initial acute response to the pandemic, which was characterised by a clear sense of emergency, coverage of Covid-19 tracking applications provides an ideal case study to examine issues related to the representation of privacy and data protection in the context of a public health emergency.

4. Insight Based on Sentiment

Sentiment analysis of the articles retrieved using LexisNexis was undertaken across all topics to gain insight into the representation of data protection and privacy issues in the context of the public health emergency. The sentiment that was being assessed was the sentiment regarding the representation of privacy and/or data protection. The coding does not reflect the views of each article's author(s), but rather assesses whether the article as a whole, including quotations from other sources, tends to represent privacy/data protection as a positive, negative, or neutral goal or value, particularly in relation to competing public interests. Accordingly, statements that criticised the absence of a data protection impact assessment, for example, would be considered positive. This approach was intended to capture how the rights themselves are portrayed, whether as obstacles, as safeguards, as trust-enhancers, or otherwise. This approach does not differentiate the logic, intensity, or nature of the positive framing. While such

refinements are worthy of consideration in future work, capturing a high-level snapshot of sentiment assists this article’s assessment of how the rights were being portrayed in the acute stage of the pandemic.

No sentiment analysis software was used; instead the author read and re-read each article applying a consistent analytical approach. For each article, the author examined the headline and every paragraph that expressly addressed privacy or data protection in the context of the pandemic. Following this process, the author assigned one of three sentiments to each article:

Assigned Sentiment	Rule	
‘Mainly Positive’ as regards the protection of privacy and/or data protection	If the piece, taken as a whole, portrayed privacy and/or data protection as beneficial or necessary, it was coded as ‘Mainly Positive’	
‘Mainly Negative’ as regards the protection of privacy and/or data protection	If the piece, taken as a whole, portrayed those rights and obligations as an obstacle or cost, it was coded as ‘Mainly Negative’	
‘Neutral’ as regards the protection of privacy and/or data protection	If the piece contained both recognition of the existence and importance of privacy and/or data protection obligations alongside critique without a clear author perspective or argument, it was coded as ‘Neutral’	Articles that were largely descriptive were also coded as ‘Neutral’

As a result of this coding approach, articles that were mixed in their representations of data protection and privacy in the context of the pandemic were coded as ‘Neutral’ unless one perspective clearly outweighed the other. Decisions on how articles should be coded were made holistically, rather than by simple statement counts, as certain phrasings and rhetorical approaches can affect portrayal in a more nuanced manner.¹¹⁴ This process unavoidably involved some interpretive judgment. The author sought to mitigate subjectivity by keeping notes regarding coding decisions and revisiting borderline articles to confirm consistent coding. The author applied the same strict rule regarding mixed articles (default to ‘Neutral’ unless one perspective clearly outweighed) throughout. As seen in the chart below, the majority of the relevant articles were classified as ‘Neutral’ in their representation of privacy and data protection issues in the context of Covid-19. This is not surprising in light of the number of

¹¹⁴ Laura Little, ‘Hiding with Words: Obfuscation, Avoidance, and Federal Jurisdiction Opinions’ (1998) 46 UCLA Law Review 91.

articles where an unembellished factual reporting approach is taken, and the strict rule applied to mixed-sentiment articles.

Focusing in on the ‘Positive’ and ‘Negative’ representations, however, it is notable that significantly more positive representations (37 of 133) were coded than negative (6 of 133), particularly in the early stages of the pandemic. If we look at the distribution of positive versus negative depictions over time as shown in Figure 5, we can see that the most positive depictions of privacy and data protection occur early in the pandemic, peaking in April 2020. This might seem surprising in light of the fact that privacy and data protection could be viewed as potential obstacles to the roll-out of promising technological solutions to the global crisis, yet the sentiment analysis does not reflect this concern.

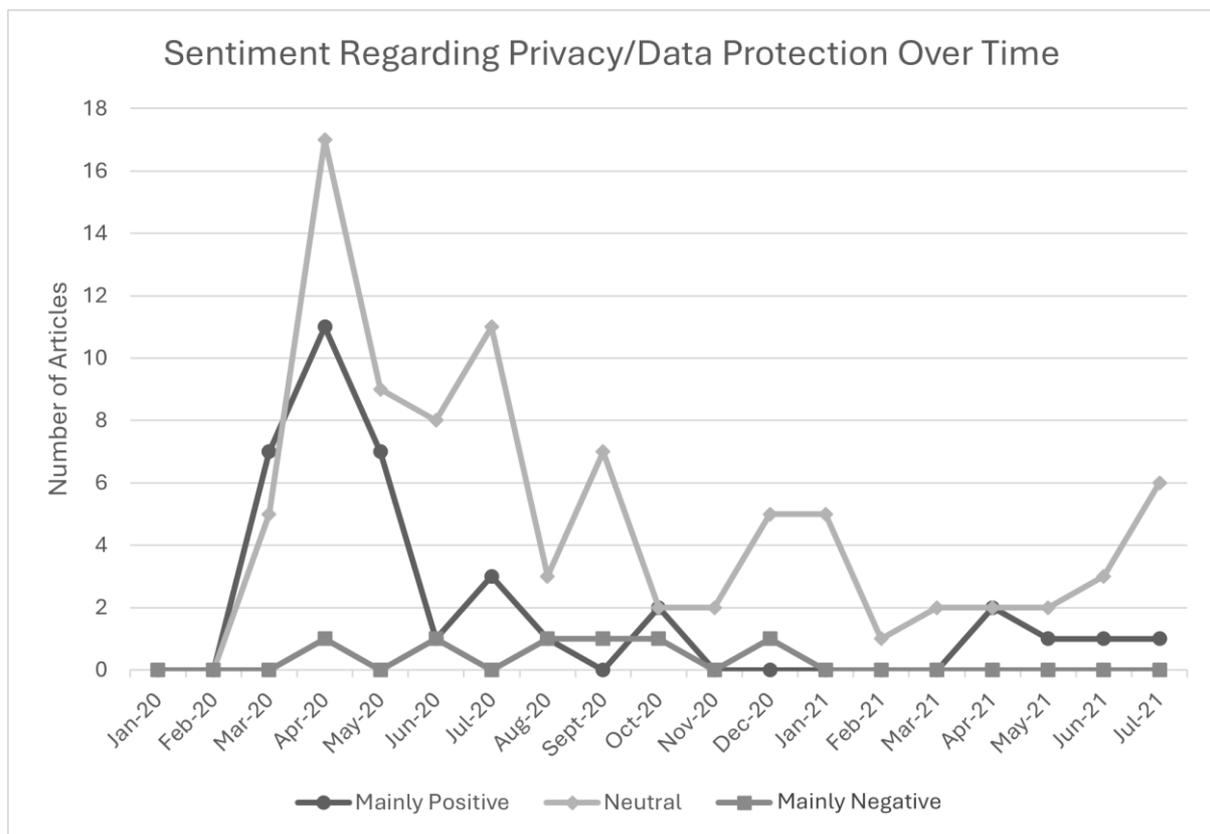


Figure 5: Sentiment Regarding Privacy/Data Protection Over Time

Homing in on coverage discussing Covid-19 tracking applications in particular, Figure 6 below shows that the majority of articles (24 of 44) concerning Covid-19 tracking applications depicted privacy and/or data protection issues in a ‘Mainly Positive’ light and 21 articles depicted privacy and/or data protection issues in a ‘Neutral’ manner. Importantly, there were no articles that were deemed to represent a ‘Negative’ depiction of privacy and data protection issues in the context of Covid-19 tracking applications. The positive coverage is particularly notable in the first three months of the time range, with the balance shifting towards more neutral coverage of privacy/data protection issues in articles considering Covid-19 tracking applications as time went on.

Seventeen of the 24 articles (71 per cent)¹¹⁵ that provided a positive representation of privacy and/or data protection in the discussion of Covid-19 tracking applications were news or feature reports, five (21 per cent)¹¹⁶ were signed opinion columns, and two (8 per cent)¹¹⁷ were *Irish Times* editorials. A substantial share of positive articles (11 of 24, 46 per cent)¹¹⁸ appeared in the Technology pages, nested within the Finance section of the newspaper. This concentration is unsurprising in light of the material typically covered by the Technology pages, where privacy and data protection issues are often discussed alongside technical details. The positive representation of privacy and/or data protection should not be seen as being limited to a niche section of the newspaper either, however, with positive portrayals being identified on the opinion pages as well as in the national and European pages.

It is worth noting that out of 24 articles that provided a positive representation of privacy and/or data protection in the discussion of Covid-19 tracking applications, five of those articles were written by Karlin Lillington (21 per cent).¹¹⁹ Lillington's frequent representation is not unexpected in light of the leading role she has played in *Irish Times* (and beyond) technology coverage for over two decades, in particular as it relates to privacy and data protection.¹²⁰ The prominence of Lillington's work in the data set is reflected in the discussion section below, where direct reference to her publications is made due to their clear engagement with the legal questions and rights and their relevance to this project. Importantly, however, positive portrayals are not limited to Lillington's byline, and other *Irish Times* staff and syndicated items account for a substantial share of positive coverage of Covid-19 tracking applications. Twelve articles by Lillington's *Irish Times* colleagues (50 per cent) were deemed to provide a positive portrayal of privacy and/or data protection in this context.¹²¹ Positive portrayals of

¹¹⁵ Rounded percentage.

¹¹⁶ Rounded percentage.

¹¹⁷ Rounded percentage.

¹¹⁸ Rounded percentage.

¹¹⁹ Rounded percentage. Lillington is a former IT Technology Correspondent (now contributor) 'Karlin Lillington Logs Off' *The Irish Times* (Dublin, 6 December 2024) <<https://www.irishtimes.com/opinion/letters/2024/12/06/karlin-lillington-logs-off/>> accessed 31 July 2025. Lillington, 'Why We Should Be Slow to Use Tracking Apps in Coronavirus Response' (n 92); Karlin Lillington, 'Coronavirus: Contact Tracing App Raises Privacy Concerns' *The Irish Times* (Dublin, 3 April 2020) <<https://www.irishtimes.com/business/technology/coronavirus-contact-tracing-app-raises-privacy-concerns-1.4219224>> accessed 31 July 2025; Karlin Lillington, 'HSE's Data Breach Bodes Ill for Contact Tracing App' *The Irish Times* (Dublin, 21 May 2020) <<https://www.irishtimes.com/business/technology/hse-s-data-breach-bodes-ill-for-contact-tracing-app-1.4258508>> accessed 31 July 2025; Karlin Lillington, 'Beware Surveillance Technology in Combating Covid' *The Irish Times* (Dublin, 18 June 2020) <<https://www.irishtimes.com/business/technology/beware-surveillance-technology-in-combating-covid-1.4281722>> accessed 31 July 2025; Karlin Lillington, 'Use Covid Tracker App If You Wish, but Be Sure to Wear a Face Covering' *The Irish Times* (Dublin, 8 July 2020) <<https://www.irishtimes.com/opinion/use-covid-tracker-app-if-you-wish-but-be-sure-to-wear-a-face-covering-1.4298624>> accessed 14 January 2025.

¹²⁰ See in particular her early and sustained coverage of the Irish Data Retention saga: Karlin Lillington, 'Retention of Mobile Call Records Queried' *The Irish Times* (Dublin, 7 November 2001) <<https://www.irishtimes.com/business/retention-of-mobile-call-records-queried-1.336042>> accessed 31 July 2025; TJ McIntyre, 'Data Retention in Ireland: When European Law Meets National Recalcitrance' in Eleni Kosta and Irene Kamara (eds), *Data Retention in Europe and Beyond: Law and Policy in the Aftermath of an Invalidated Directive* (Oxford University Press 2025) <<https://doi.org/10.1093/9780191998980.001.0001>> accessed 31 July 2025.

¹²¹ Two articles were published under the byline of Ciara O'Brien and Jack Horgan Jones. Jack Horgan-Jones, 'Coronavirus: Smartphone App to Facilitate Contact Tracing to Be Rolled out, HSE Says' *The Irish Times* (Dublin, 29 March 2020) <<https://www.irishtimes.com/news/ireland/irish-news/coronavirus-smartphone-app-to-facilitate-contact-tracing-to-be-rolled-out-hse-says-1.4215036>> accessed 31 July 2025; Jennifer O'Connell, 'Covid-19 Is Normalising Mass Surveillance of Citizens' *The Irish Times* (Dublin, 28 March 2020) <<https://www.irishtimes.com/opinion/jennifer-o-connell-covid-19-is-normalising-mass-surveillance-of-citizens-1.4213829>> accessed 31 July 2025; Derek Scally, 'Germany Rejects Centralised Data Storage for Coronavirus

privacy and/or data protection were not limited to in-house writers either. Seven of the 24 positive articles (29 per cent)¹²² were sourced from outside the *Irish Times* offices, with three in the form of invited opinion pieces (13 per cent),¹²³ and four syndicated from international outlets (17 per cent).¹²⁴ Two of these articles came from the *New York Times*, one from the *Financial Times*, and one from Reuters.¹²⁵ By publishing selected external pieces, readers of the *Irish Times* gain access to additional expert and international perspectives. Although the newspaper retains full editorial control, these contributions can diversify and deepen the conversation.

Tracing App' *The Irish Times* (Dublin, 27 April 2020) <<https://www.irishtimes.com/news/world/europe/germany-rejects-centralised-data-storage-for-coronavirus-tracing-app-1.4239170>> accessed 31 July 2025; Ciara O'Brien, 'Coronavirus: The Online Scams, Apps and Trends You Need to Know about during the Pandemic' *The Irish Times* (Dublin, 9 April 2020) <<https://www.irishtimes.com/business/technology/coronavirus-the-online-scams-apps-and-trends-you-need-to-know-about-during-the-pandemic-1.4223177>> accessed 31 July 2025; Jack Horgan-Jones, 'Coronavirus: Proposed HSE App Sparks Concern over Privacy' (23 April 2020) <<https://www.irishtimes.com/news/ireland/irish-news/coronavirus-proposed-hse-app-sparks-concern-over-privacy-1.4235473>> accessed 31 July 2025; Naomi O'Leary Europe Correspondent, 'Tracing Apps Could Help Provide Path out of Coronavirus Lockdown' *The Irish Times* (Dublin, 15 April 2020) <<https://www.irishtimes.com/news/world/europe/tracing-apps-could-help-provide-path-out-of-coronavirus-lockdown-1.4229899>> accessed 31 July 2025; 'The *Irish Times* View on Pandemic Responses: Transparency Is Essential' *The Irish Times* (Dublin, 7 April 2020) <<https://www.irishtimes.com/opinion/editorial/the-irish-times-view-on-pandemic-responses-transparency-is-essential-1.4223320>> accessed 31 July 2025; 'The *Irish Times* on Contact-Tracing Apps: No Silver Bullet' *The Irish Times* (Dublin, 20 May 2020) <<https://www.irishtimes.com/opinion/editorial/the-irish-times-on-contact-tracing-apps-no-silver-bullet-1.4257696>> accessed 31 July 2025; Paul Cullen, 'Contact Tracing App: One in Four Must Use to Curb Covid-19 Spread' *The Irish Times* (Dublin, 4 May 2020) <<https://www.irishtimes.com/news/health/covid-19-spread-1.4244108>> accessed 31 July 2025; Ciara O'Brien, 'Covid Tracker App Throws Spotlight on Google Data Harvesting' *The Irish Times* (Dublin, 30 July 2020) <<https://www.irishtimes.com/business/technology/covid-tracker-app-throws-spotlight-on-google-data-harvesting-1.4315739>> accessed 31 July 2025; Conor Gallagher, 'Trinity Researchers Question Data Sent from Google Phone Apps' *The Irish Times* (Dublin, 21 July 2020) <<https://www.irishtimes.com/business/technology/trinity-researchers-question-data-sent-from-google-phone-apps-1.4310217>> accessed 31 July 2025; Úna McCaffrey, 'Waterford Company Launches Covid App in New York and New Jersey' *The Irish Times* (Dublin, 1 October 2020) <<https://www.irishtimes.com/business/technology/waterford-company-launches-covid-app-in-new-york-and-new-jersey-1.4369822>> accessed 31 July 2025.

¹²² Rounded percentage.

¹²³ Rounded percentage. Acadia (n 132); Jean-Christophe Desplat, 'Public Must Have Confidence in Covid-19 Contact-Tracing App' *The Irish Times* (Dublin, 21 April 2020) <<https://www.irishtimes.com/opinion/public-must-have-confidence-in-covid-19-contact-tracing-app-1.4233505>> accessed 31 July 2025; Elizabeth Farries, 'Covid-Tracing App May Be Ineffective and Invasive of Privacy' *The Irish Times* (Dublin, 5 May 2020) <<https://www.irishtimes.com/opinion/covid-tracing-app-may-be-ineffective-and-invasive-of-privacy-1.4244638>> accessed 31 July 2025.

¹²⁴ Rounded percentage.

¹²⁵ Paul Mozur, Raymond Zhong, and Aaron Krolik, 'Coronavirus: China Rolls Out Far-Reaching Mass Data Experiment' *The Irish Times* (Dublin, 2 March 2020) <<https://www.irishtimes.com/news/world/asia-pacific/coronavirus-china-rolls-out-far-reaching-mass-data-experiment-1.4190662>> accessed 31 July 2025; 'US Authorities Scrutinise Zoom's Practices as App's Traffic Surges' *The Irish Times* (Dublin, 31 March 2020) <<https://www.irishtimes.com/business/technology/us-authorities-scrutinise-zoom-s-practices-as-app-s-traffic-surges-1.4216694>> accessed 31 July 2025; 'EU to Adopt Pan-European Approach on Mobile Apps to Fight Coronavirus' *The Irish Times* (Dublin, 8 April 2020) <<https://www.irishtimes.com/business/technology/eu-to-adopt-pan-european-approach-on-mobile-apps-to-fight-coronavirus-1.4223925>> accessed 31 July 2025; Rana Foroohar, 'Big Tech's Viral Boom Could Be Its Undoing' *The Irish Times* (Dublin, 22 May 2020) <<https://www.irishtimes.com/business/technology/big-tech-s-viral-boom-could-be-its-undoing-1.4257199>> accessed 31 July 2025.

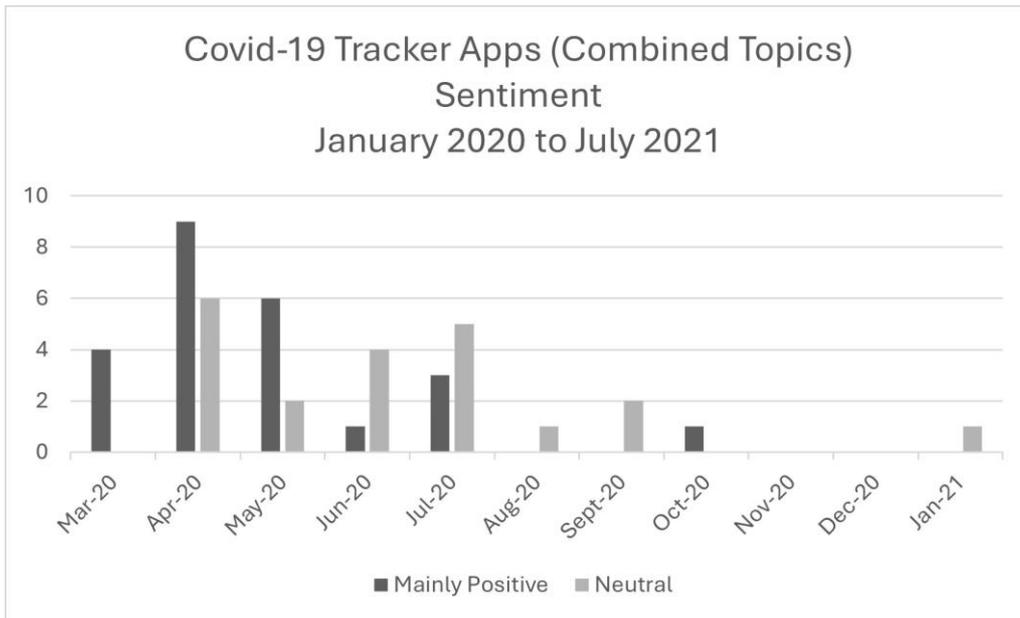


Figure 6: Covid-19 Tracker Apps (Combined Topics) Sentiment

Figure 7 below shows the contrast in sentiment coded to non-Covid-19 tracking application topics. From the earliest data point and all the way through the period studied, the coverage of all other relevant topics tended to represent matters of privacy and data protection more neutrally and less positively than articles discussing Covid-19 tracking applications. Notably, some negative sentiment regarding privacy and data protection was identified, which was not the case in the analysis of the Covid-19 tracking applications coverage.

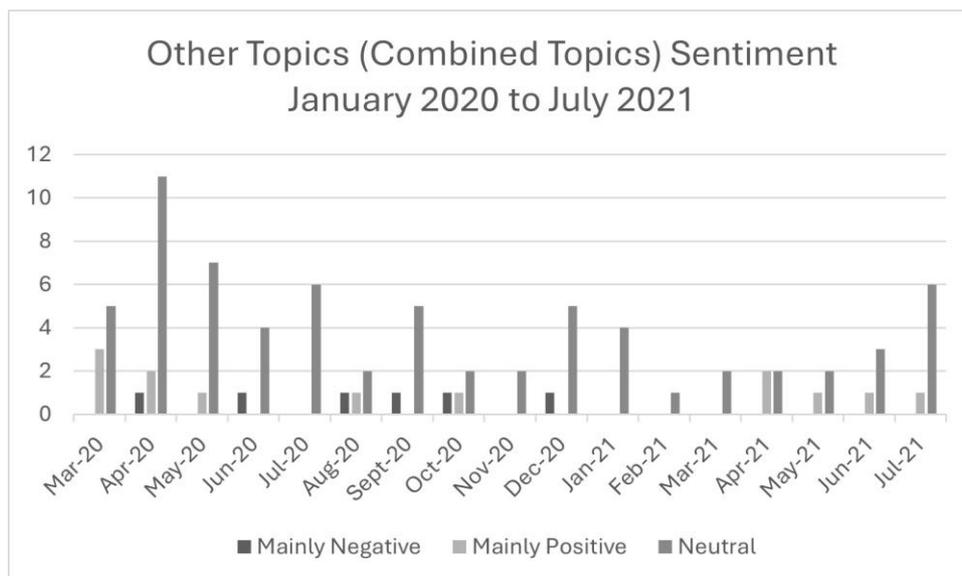


Figure 7: Other Topics (Combined Topics) Sentiment

Negative sentiment was identified early in the pandemic, in April 2020, concerning the topic of ‘Media Reporting and Patient Privacy’,¹²⁶ and negative sentiment was again identified in coverage in June, August, September, October, and December 2020 concerning the topic of ‘Other Surveillance Related Topic Excluding Covid-19 App’.¹²⁷ Interestingly, one of these negative representations of privacy actually concerned traditional, non-application based contact-tracing. Data protection obligations were reported to be acting as an obstacle to effective cross-border collaboration between contact tracers in Ireland and Northern Ireland.¹²⁸ Other articles represent privacy as a simple hurdle to be overcome and data protection rules as obstructions to beneficial data use, such as the publication of maps showing Covid-19 case locations.¹²⁹

5. A Good News Story? Analysing the Coverage of Covid-19 Tracking Application

While the coverage of tracking applications can be distinguished from the coverage of other topics by the absence of articles coded as containing negative representations of privacy and data protection, the high number of articles containing positive representations of privacy and data protection is particularly notable (see Figure 6 above). From a general perspective, the roll-out of the Irish Covid-19 tracking application was represented as a positive news story in the *Irish Times* coverage.¹³⁰ Indeed this positive emphasis in coverage can be observed across a broad array of Irish news sources.¹³¹ Much of the coverage reveals a narrative where a broad

¹²⁶ ‘Privacy Measures Delayed Reporting of 250 Covid-19 Cases among Mater Staff’ *The Irish Times* (Dublin, 4 June 2020) <<https://www.irishtimes.com/news/health/privacy-measures-delayed-reporting-of-250-covid-19-cases-among-mater-staff-1.4269822>> accessed 31 July 2025.

¹²⁷ Paul Cullen, ‘Contact Tracing: A Lot of People on the Border Are Not Being Traced, Says GP’ *The Irish Times* (26 October 2020) <<https://www.irishtimes.com/news/health/contact-tracing-a-lot-of-people-on-the-border-are-not-being-traced-says-gp-1.4390898>> accessed 31 January 2025; Ciara O’Brien, ‘Coronavirus Pandemic Moves Data Analytics Front and Centre’ *The Irish Times* (10 December 2020) <<https://www.irishtimes.com/business/technology/coronavirus-pandemic-moves-data-analytics-front-and-centre-1.4430982>> accessed 31 January 2025; Paul Cullen, ‘Covid-19 Is Spreading Most in Deprived Areas, the Figures Suggest’ *The Irish Times* (Dublin, 18 September 2020) <<https://www.irishtimes.com/news/health/covid-19-is-spreading-most-in-deprived-areas-the-figures-suggest-1.4358795>> accessed 31 January 2025; Michael McDowell, ‘Martin and Varadkar Need to Earn Our Backing by Communicating Frankly with Us’ *The Irish Times* (Dublin, 26 August 2020) <<https://www.irishtimes.com/opinion/martin-and-varadkar-need-to-earn-our-backing-by-communicating-frankly-with-us-1.4338625>> accessed 31 July 2025; ‘*The Irish Times* View on Pandemic Responses: Transparency Is Essential’ *The Irish Times* (Dublin, 7 April 2020) <<https://www.irishtimes.com/opinion/editorial/the-irish-times-view-on-pandemic-responses-transparency-is-essential-1.4223320>> accessed 31 July 2025.

¹²⁸ Cullen, ‘Contact Tracing’ (n 127).

¹²⁹ Cullen, ‘Covid-19 Is Spreading Most in Deprived Areas, the Figures Suggest’ (n 127); O’Brien, ‘Coronavirus Pandemic Moves Data Analytics Front and Centre’ (n 127).

¹³⁰ Sarah Burns and Martin Wall, ‘One Million People Have Now Downloaded Ireland’s Covid-19 Tracker App’ *The Irish Times* (Dublin, 8 July 2020) <<https://www.irishtimes.com/news/ireland/irish-news/one-million-people-have-now-downloaded-ireland-s-covid-19-tracker-app-1.4299056>> accessed 31 January 2025; Ciara O’Brien, ‘Race against Time: The Inside Story of Ireland’s Covid Tracker App’ *The Irish Times* (Dublin, 16 July 2020) <<https://www.irishtimes.com/business/technology/race-against-time-the-inside-story-of-ireland-s-covid-tracker-app-1.4303509>> accessed 31 July 2025.

¹³¹ Micheál Ó Scannáil, “‘This Is a Huge Achievement’ – One Million People Download Covid-19 Tracker App in 48 Hours’ *Irish Independent* (Dublin, 8 July 2020) <<https://www.independent.ie/irish-news/this-is-a-huge-achievement-one-million-people-download-covid-19-tracker-app-in-48-hours/39352191.html>> accessed 31 January 2025; Irina Tal and others, ‘Why 61% of Us Are Willing to Share Personal Data to Save Lives’ (*RTE News*, 3 February 2021) <<https://www.rte.ie/brainstorm/2021/0203/1194741-covid-19-privacy-personal-data-tracker-app/>> accessed 31 January 2025; Aine McMahon, ‘Health Minister Says Covid Tracker App Has “Privacy at Its Core”’ *Irish Mirror* (Dublin, 7 July 2020) <<https://www.irishmirror.ie/news/irish-news/covid-tracking-app-ireland-privacy-22315996>> accessed 31 January 2025; Dominic McGrath, ‘Why Was the Covid-19 App so

public embrace of the Covid-19 tracking application was seen as a significant victory in the fight against Covid-19 and a step towards a return to ‘normal life’.

Reflecting the findings in the sentiment analysis discussed above, much of the coverage did not depict privacy and data protection as obstacles to the successful roll-out of the Covid-19 tracking application. A close examination of the articles reveals the tracking application story to be one that unfolded over time in response to political and technical developments. While there was early curiosity about the potential of tracking applications, there was also early expressions of caution where privacy and data protection were not represented as mere stumbling blocks to tackling the pandemic. A number of early articles considered the broader challenges to civil liberties that states of emergency can bring about. For example, in April 2020, Acadia questioned whether Europeans would accept the loss of privacy associated with Bluetooth tracking applications, such as Singapore’s TraceTogether application.¹³² In an article on 3 April 2020, Lillington not only clearly identified the relevant law and sensitive nature of location data, she also highlighted the lack of evidence for the effectiveness of tracking applications and the potential for human rights abuses where States ‘have a bad habit of bringing in broader population surveillance and special powers during emergencies that are never reversed when the crisis ends’.¹³³ A few days later, another Lillington piece was published acknowledging the hope of some that tracking applications had the potential to provide a ‘slow return to, if not normality, then at least some freedom of movement, better containment of inevitable further Covid-19 outbreaks, and a reboot of economic activity’.¹³⁴ Lillington also engaged with the argument that data protection and privacy rights ‘are preventing the use of data’, noting that:

Some restrictions can be, and already have been eased in this time of crisis, to enable the use of data for potential tech solutions. But all solutions need to be balanced and proportionate – and provide some indication of successfully satisfying a societal need.¹³⁵

In late March 2020, the HSE announced the forthcoming roll-out of its tracking application, emphasising the voluntary nature of the application and its ‘compliance with strict data protection and processing rules’. Experts were quoted in the *Irish Times* as calling for greater detail and consultation in advance of the roll-out, however, citing the need to ‘ensure trust and engagement by avoiding any hint of “mandatory but not compulsory” which could undermine the fantastic trust and co-operation that has been developed over the past few weeks in society’.¹³⁶

It is notable how much of the emphasis of coverage was on the establishment and maintenance of trust with the public. Moreover, the focus on building confidence through technical choices and transparency appeared to assume a high level of public understanding on matters related

Successful in Ireland?’ (*TheJournal.ie*, 11 July 2020) <<https://www.thejournal.ie/covid-19-app-ireland-success-5146093-Jul2020/>> accessed 31 January 2025.

¹³² Lilith Acadia, ‘Coronavirus Pandemic Is Putting Civil Liberties at Risk’ *The Irish Times* (Dublin, 9 April 2020) <<https://www.irishtimes.com/opinion/coronavirus-pandemic-is-putting-civil-liberties-at-risk-1.4224230>> accessed 31 January 2025.

¹³³ Karlin Lillington, ‘Coronavirus: Contact Tracing App Raises Privacy Concerns’ *The Irish Times* (Dublin, 3 April 2020) <<https://www.irishtimes.com/business/technology/coronavirus-contact-tracing-app-raises-privacy-concerns-1.4219224>> accessed 31 July 2025.

¹³⁴ Lillington, ‘Why We Should Be Slow to Use Tracking Apps in Coronavirus Response’ (n 92).

¹³⁵ *ibid.*

¹³⁶ Jack Horgan-Jones, ‘Coronavirus: Smartphone App to Facilitate Contact Tracing to Be Rolled Out, HSE Says’ *The Irish Times* (Dublin, 29 March 2020) <<https://www.irishtimes.com/news/ireland/irish-news/coronavirus-smartphone-app-to-facilitate-contact-tracing-to-be-rolled-out-hse-says-1.4215036>> accessed 31 July 2025.

to data privacy. For example, as put by Desplat in April 2020, ensuring public confidence in any tracking application

depends on the technology chosen, how this information is handled, what key decisions are made regarding the software architecture, who controls and manages this data, the options used in terms of encryptions and anonymisation and guarantees about data redundancy once this crisis has passed.¹³⁷

Later, in April 2020, the *Irish Times* reported on the German ‘u-turn’ away from a centralised storage model for tracking applications and towards a Bluetooth connectivity model where encrypted codes would be exchanged between phones in proximity for more than 15 minutes.¹³⁸ The article reported on the cross-party support in Germany for the shift in approach due to the need to protect privacy and ensure trust in a tracking application. It also quoted an open letter warning that a lack of trust would hamper the ‘acceptance of such an application by society-at-large’.¹³⁹ The German change in approach, following on from decisions made by Switzerland and Austria, can be seen as an important point in the development of tracking applications across Europe, including Ireland. As was clear from the reporting in the *Irish Times*, there was recognition that trust would be needed to facilitate sufficient uptake of tracking applications and that data protection and privacy protections would be an important aspect of building that trust.¹⁴⁰ Cooperation between Apple and Google on a joint ‘Exposure Notification’ framework made a decentralised system possible using Bluetooth technology.¹⁴¹ In the companies’ statements on their plan they noted that ‘privacy, transparency, and consent are of utmost importance in this effort, and we look forward to building this functionality in consultation with interested stakeholders’.¹⁴² Following delays to account for the change in approach, Ireland’s ‘Covid Tracker’ was launched on 7 July 2020, with one million people downloading the application in less than two days.¹⁴³

The development and advocacy for mass roll-outs of tracking applications is reflective of the technological solutionism that is common in times of crisis.¹⁴⁴ While the coverage of the Covid-19 tracking application did not represent the technology a panacea, it reported the potential for

¹³⁷ Desplat (n 123).

¹³⁸ Derek Scally, ‘Germany Rejects Centralised Data Storage for Coronavirus Tracing App’ *The Irish Times* (Dublin, 27 April 2020) <<https://www.irishtimes.com/news/world/europe/germany-rejects-centralised-data-storage-for-coronavirus-tracing-app-1.4239170>> accessed 31 July 2025.

¹³⁹ *ibid.*

¹⁴⁰ *ibid.*

¹⁴¹ Ciara O’Brien, ‘Coronavirus: Apple, Google Team up on Contact Tracing Technology’ *The Irish Times* (Dublin, 10 April 2020) <<https://www.irishtimes.com/business/technology/coronavirus-apple-google-team-up-on-contact-tracing-technology-1.4226269>> accessed 31 July 2025.

¹⁴² *ibid.*

¹⁴³ ‘COVID Tracker App for Ireland Launched’ (7 July 2020, gov.ie) <<https://www.gov.ie/en/department-of-health/press-releases/covid-tracker-app-for-ireland-launched/>> accessed 24 November 2025; Burns and Wall (n 130).

¹⁴⁴ Linnet Taylor, ‘There Is an App for That: Technological Solutionism as Covid-19 Policy in the Global North’ [2021] *The New Common* 209; Luca Marelli, Katharina Kieslich, and Susi Geiger, ‘Covid-19 and Techno-Solutionism: Responsibilization without Contextualization?’ (2022) 32 *Critical Public Health* 1; Anna-Verena Nosthoff and Felix Maschewski, ‘Pandemic Solutionism: The Power of Big Tech during the Covid-19 Crisis’ (2023) 8 *Digital Culture and Society* 43; Stefania Milan, ‘Techno-Solutionism and the Standard Human in the Making of the Covid-19 Pandemic’ (2020) 7 *Big Data & Society* <<https://doi.org/10.1177/2053951720966781>> accessed 31 July 2025; Rob Kitchin, ‘Using Digital Technologies to Tackle the Spread of the Coronavirus: Panacea or Folly?’ (2020) *Programmable City Working Paper* 44 <progcity.maynoothuniversity.ie/wp-content/uploads/2020/04/Digital-tech-spread-of-coronavirus-Rob-Kitchin-PC-WP44.pdf> accessed 24 November 2025.

an application to support efforts to roll back strict social-distancing measures if certain conditions – most critically, high population uptake¹⁴⁵ – were met. As put by Lillington:

Should you use it? Perhaps. Such an app, which aims to retrospectively alert users who have been within 2m of an infected person for more than 15 minutes, could be a useful tool in the ongoing attempt to open up the country again, while curtailing future Covid-19 outbreaks.¹⁴⁶

On closer inspection, much of the favourable coverage observed across newspapers following the launch of the ‘Covid Tracker’ application stemmed from initial public enthusiasm as evident in the high number of early downloads.¹⁴⁷ In terms of the representation of privacy and data protection in anticipation of the ‘Covid Tracker’, however, newspaper coverage clearly acknowledged that tracking applications can raise significant privacy issues.¹⁴⁸ There was also significant positivity about the potential of data protection law to provide a framework by which to achieve the necessary trust to encourage sufficiently wide uptake of the technology. In an article emphasising the role of trust, O’Brien opened robustly with the assertion: ‘Ireland’s fight against the spread of Covid-19 is stepping up a gear, and it seems that technology will play its part.’¹⁴⁹ O’Brien’s article is measured in its expectations, however, noting that the data collected ‘could enable a more efficient contact tracing process’.¹⁵⁰ Emphasising the importance of privacy and trust, the article goes on to note that ‘privacy is a key issue with the apps’ and that the ‘large take-up among the population’ needed for the success of the application requires broad levels of trust in the application.¹⁵¹

Privacy and data protection are widely recognised as key factors in establishing trust in digital life.¹⁵² The emphasis on trust is reflected in EU data protection law, where strong data protection standards are seen as important for fostering trust in the digital economy. The GDPR pursues the dual goals of facilitating the free flow of data and protecting fundamental rights, particularly the right to protection of personal data. Trust plays an important role in achieving these objectives as harmonised high levels of protection remove legal barriers and build confidence in data sharing, thus facilitating the free flow of data between Member States.¹⁵³ Recital 7 GDPR explicitly states that trust is necessary for the ‘digital economy to develop across the internal market’.¹⁵⁴

¹⁴⁵ O’Brien reported that researchers at Oxford University’s Big Data Institute found that 60 per cent population uptake would be necessary to suppress the pandemic. Ciara O’Brien, ‘The Frontline of the Fight against Covid? There’s an App for That’ *The Irish Times* (Dublin, 23 April 2020) <<https://www.irishtimes.com/business/technology/the-frontline-of-the-fight-against-covid-there-s-an-app-for-that-1.4235094>> accessed 31 January 2025.

¹⁴⁶ Lillington, ‘Use Covid Tracker App If You Wish, but Be Sure to Wear a Face Covering’ (n 119).

¹⁴⁷ Ó Scannáil (n 131); Tal and others (n 131); McMahan (n 131); McGrath (n 131).

¹⁴⁸ Desplat (n 123).

¹⁴⁹ O’Brien, ‘The Frontline of the Fight against Covid?’ (n 145).

¹⁵⁰ *ibid.*

¹⁵¹ *ibid.*

¹⁵² Dirk van Rooy and Jacques Bus, ‘Trust and Privacy in the Future Internet – A Research Perspective’ (2010) 3 *Identity in the Information Society* 397, 398; Neil M Richards and Woodrow Hartzog, ‘Taking Trust Seriously in Privacy Law’ (2016) 19 *Stanford Technology Law Review* 431; Grace Fox, Theo Lynn, and Pierangelo Rosati, ‘Enhancing Consumer Perceptions of Privacy and Trust: A GDPR Label Perspective’ (2022) 35 *Information Technology & People* 181; Christopher Hodges, ‘Delivering Data Protection: Trust and Ethical Culture Discussion’ (2018) 4 *European Data Protection Law Review (EDPL)* 65.

¹⁵³ General Data Protection Regulation, art 1. Although clear tensions between the economic and human rights goals exist. Orla Lynskey, *The Foundations of EU Data Protection Law* (Oxford University Press 2016) 46; Murphy ‘Privacy, Surveillance, and Democratic Values: The Adaptability of Human Rights Law in the Digital Age’ (n 4).

¹⁵⁴ GDPR, rec 7.

The emphasis of much coverage during the development of Ireland’s ‘Covid Tracker’ application on the importance of greater transparency and better privacy design appears to reflect an acceptance of the principles of the GDPR and the obligation of ‘data protection by design and by default’ as provided for in Article 25 GDPR.¹⁵⁵ The GDPR requirement is informed by the internationally recognised principle of privacy by design,¹⁵⁶ described as a ‘systematic approach to designing any technology that embeds privacy into the underlying specifications or architecture’.¹⁵⁷ Privacy by design is a distinct approach and is based on seven foundational principles.¹⁵⁸ One of the seven principles important to the foundations of privacy by design is that privacy should be embedded in ‘a positive-sum (not zero-sum) manner so as to enhance both privacy and system functionality’.¹⁵⁹ In line with the principles of privacy by design, a theme of the newspaper coverage analysed for this project was the rejection of a ‘zero-sum paradigm’ characterising privacy as an ‘impediment standing in the way of innovation and desired goals’.¹⁶⁰ Instead, the manner in which the development of the Irish Covid-19 tracking application responded to privacy concerns and reformed its design approach was represented as a victory for privacy, trust, and the fight against Covid-19. Lillington’s reporting stands out for its in-depth treatment of privacy and data protection issues and it is notable that she praises the process which led to application’s launch, stating:

[M]uch was done in past months to address privacy concerns flagged for such apps, which was developed by Irish company Nearform. Initial secrecy about the Irish app evolved into greater transparency and better privacy design (and probably accounted for the long delay in its release).¹⁶¹

While recognising continued questions regarding the application’s effectiveness, Lillington highlights the openness of the code, the simple explanations on how the tracking works and how the application uses data, and the ease of opting out at any point.¹⁶²

In addition to highlighting broad public support for this technological ‘solution’, the coverage also portrayed the privacy-conscious approach adopted as a means of tackling the virus while still accounting for privacy, data protection, and trust. The next section considers the broader implications of these findings for the representation of privacy and data protection as human rights issues in times of crisis in Ireland.

¹⁵⁵ Article 25 GDPR requires data controllers to ‘both at the time of the determination of the means for processing and at the time of the processing itself, implement appropriate technical and organisational measures, such as pseudonymisation, which are designed to implement data-protection principles, such as data minimisation, in an effective manner and to integrate the necessary safeguards into the processing in order to meet the requirements of this Regulation and protect the rights of data subjects’: GDPR, art 25(1).

¹⁵⁶ ‘Preliminary Opinion on Privacy by Design’ (European Data Protection Supervisor 2018) Opinion 5/2018 3 <https://www.edps.europa.eu/sites/default/files/publication/18-05-31_preliminary_opinion_on_privacy_by_design_en_0.pdf> accessed 31 July 2025.

¹⁵⁷ I Rubinstein, ‘Regulating Privacy by Design’ (2011) 26 Berkeley Tech LJ 1410, 1411–12; A Cavoukian, *Privacy by Design* (Information and Privacy Commissioner 2009) 1 <<http://www.ipc.on.ca/images/Resources/privacybydesign.pdf>> accessed 24 November 2025.

¹⁵⁸ Proactive not Reactive, Preventative not Remedial; 2. Privacy as the Default Setting; Privacy Embedded into Design; 4. Full Functionality – Positive-Sum, not Zero-Sum; 5. End-to-End Security – Full Lifecycle Protection; 6. Visibility and Transparency – Keep it Open; 7. Respect for User Privacy – Keep it User-Centric.

¹⁵⁹ A Cavoukian, *Privacy by Design* (Information and Privacy Commissioner 2009) 1 <<https://www.ipc.on.ca/en/media/1826/download?attachment>> accessed 24 November 2025.

¹⁶⁰ A Cavoukian, ‘Privacy and Radical Pragmatism: Change the Paradigm’ (Information and Privacy Commissioner 2008) 16 <http://www.ipc.on.ca/images/Resources/radicalpragmatism_1.pdf>. Maria Helen Murphy, ‘The Introduction of Smart Meters in Ireland: Privacy Implications and the Role of Privacy by Design’ (2015) 38 Dublin University Law Journal 38.

¹⁶¹ Lillington, ‘Use Covid Tracker App If You Wish, but Be Sure to Wear a Face Covering’ (n 119).

¹⁶² *ibid.*

6. Privacy, Data Protection, and the ‘New Health and Safety’

While data protection law protects the rights of individuals, it has often been criticised as a bureaucratic burden standing in opposition to other legitimate aims.¹⁶³ It has, at times, also been pejoratively referred to colloquially as ‘the new health and safety’¹⁶⁴ – implying that data protection is a bureaucratic requirement used as a vague justification for restrictive rules or as an unnecessary obstruction to practical aims.¹⁶⁵ The comparison has been made in a more nuanced way, with recognition that data protection regulations are sometimes misrepresented in bad faith as an excuse for decisions or as a ‘bureaucratic dodge to avoid public scrutiny’.¹⁶⁶ Additionally, the comparison with health and safety has been made in a more positive and practical light, recognising the need to comply with data protection law in the same manner as has been prioritised by businesses in the health and safety context.¹⁶⁷ Written in reference to the post-Covid explosion in homeworking, a letter to the Financial Times in 2021 stated that

‘data rights’ are ‘the new “health and safety” rules’. Just as we trained our workplace reps to negotiate safer workplaces, we are now training them to talk to their employers about data and surveillance.¹⁶⁸

The findings from the research discussed in this article suggest that, in Irish discourse, data protection is perceived as the new health and safety in the more positive sense of ‘something that has to be done’.

¹⁶³ ‘Europe’s Tough New Data-Protection Law’ *The Economist* (London, 5 April 2018) <<https://www.economist.com/business/2018/04/05/europes-tough-new-data-protection-law>> accessed 31 July 2025; Jennifer Huddleston, ‘The Price of Privacy: The Impact of Strict Data Regulations on Innovation and More’ (*AAF*, 3 June 2021) <<https://www.americanactionforum.org/insight/the-price-of-privacy-the-impact-of-strict-data-regulations-on-innovation-and-more/>> accessed 31 July 2025; Martin Brinnen and Daniel Westman, ‘What’s Wrong with the GDPR? Description of the Challenges for Business and Some Proposals for Improvement.’ (Svenst Naringsliv, December 2019) <https://www.svensknaringsliv.se/material/skrivelser/xf8sub_whats-wrong-with-the-gdpr-webbpdf_1005076.html/What%27s+wrong+with+the+GDPR+Webb.pdf>.

¹⁶⁴ Health and safety rules have at times been perceived as ‘senseless bureaucracy’: ‘Common Sense, Common Safety: A Report by Lord Young of Graffham to the Prime Minister Following a Whitehall-wide Review of the Operation of Health and Safety Laws and the Growth of the Compensation Culture’ (HM Government 2010) <https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/60905/402906_CommonSense_acc.pdf>.

¹⁶⁵ This is an anecdotal observation as there is little in the way of scholarly writing discussing this point. Social media search, however, provides insight into the discussion, including from the perspective of professionals working in data protection. Jason Smith, ‘Is GDPR the New Health & Safety?’ (*LinkedIn*, 27 November 2018) <<https://www.linkedin.com/pulse/gdpr-new-health-safety-jason-smith/>> accessed 31 July 2025. A search on X (formerly Twitter), finds numerous instances of this comparison: ‘CleverFultonRankin on X’ <https://x.com/CFR_Law/status/982215159824269312>; ‘Malcolm Combe on X’ <<https://x.com/MalcolmCombe/status/1067558874851487744>>; ‘John Collins on X’ <<https://x.com/HangBlaa/status/1062006289688092673>>; ‘Martin Sweeney on X’ <<https://x.com/sweeney/status/1056928116642324480>> all accessed 24 November 2025.

¹⁶⁶ Karlin Lillington, ‘GDPR Is Being Used as a Bureaucratic Dodge to Avoid Public Scrutiny’ *The Irish Times* (Dublin, 27 May 21) <<https://www.irishtimes.com/business/technology/gdpr-is-being-used-as-a-bureaucratic-dodge-to-avoid-public-scrutiny-1.4576081>> accessed 31 July 2025.

¹⁶⁷ Laura Irvine and Paul Motion, ‘Could Data Protection Be the New Health and Safety?’ *The Scotsman* (Edinburgh, 4 May 2015) 34.

¹⁶⁸ Andrew Pakes, ‘Letter: Working at Home Makes Data Rights the New Health and Safety’ *Financial Times* (London, 15 January 2021) <<https://www.ft.com/content/7e0840f9-fb7f-4341-9bd7-f2e0fbb442ff>> accessed 31 July 2025. A similar observation has been made in related contexts – for example, Richards notes that ‘it could be argued that security and safety now go hand-in-hand. Businesses should pay the same care and attention to cyber security as they do to the Health and Safety Act if they are to prevent the serious damage that could be caused by a successful cyber-attack’: Nick Richards, ‘Why Cyber Security Is the New Health and Safety’ (*Tripwire*, 28 February 2018) <<https://www.tripwire.com/state-of-security/cyber-security-new-health-safety>> accessed 31 July 2025.

While the earliest coverage of tracking applications in other jurisdictions tended to focus on broader questions of civil liberties, as the possibility of a tracking application being made available in Ireland became clear, the focus naturally shifted to the framework provided by the GDPR. The positive portrayals of privacy and data protection in the Covid-19 tracking application context emphasised Data Protection Impact Assessments, transparent open-source code, and decentralised infrastructure. While these measures contributed to delays in the application's roll-out, they were all eventually adopted, and were considered necessary by some to ensure maximum trust and uptake among the population.

The focus on how the application should be designed largely sidelined discussion on whether a tracking application should be developed at all. Although experts did flag the disputed necessity of the project and prevailed in the debate on data minimisation and voluntariness, the process ultimately facilitated the pursuit of a public interest project through the use of personal data. It would not be accurate to characterise the process as a bureaucratic tick-the-box exercise, however, as the law acted as a substantive constraint, providing real protections for individuals. The positive portrayals could be seen to reflect the utility of detailed laws like the GDPR in providing workable frameworks within which to pursue rights-protecting data projects.

The positive representation of data protection and privacy issues in the Covid-19 tracking application coverage suggests that data protection regulations have achieved a degree of acceptance and cultural legitimacy. It was found, however, that the data protection rules discussed were rarely associated with Articles 7 and 8 of the Charter in the *Irish Times* coverage. A simple word search, across all topic categories in the data set, identified just six articles out of 133 containing the term 'fundamental right(s)' (5 per cent),¹⁶⁹ and just four of those results related to fundamental rights as protected by the Charter (3 per cent).¹⁷⁰ It is notable that in three of the four articles that used the term 'fundamental right(s)' in reference to EU privacy and data protection rights, the term appeared as part of a quotation of an EU

¹⁶⁹ Rounded percentage.

¹⁷⁰ Rounded percentage. Karlin Lillington, 'Beware Surveillance Technology in Combating Covid' *The Irish Times* (Dublin, 18 June 2020) <<https://www.irishtimes.com/business/technology/beware-surveillance-technology-in-combating-covid-1.4281722>> accessed 31 July 2025; Michael Doyle, 'Vaccine Rollout Will Present Tricky Legal Issues for Employers' *The Irish Times* (Dublin, 17 January 2021) <<https://www.irishtimes.com/business/work/vaccine-rollout-will-present-tricky-legal-issues-for-employers-1.4460527>> accessed 31 July 2025; Reuters, 'EU to Adopt Pan-European Approach on Mobile Apps to Fight Coronavirus' *The Irish Times* (Dublin, 8 April 2020) <<https://www.irishtimes.com/business/technology/eu-to-adopt-pan-european-approach-on-mobile-apps-to-fight-coronavirus-1.4223925>> accessed 31 July 2025. Ciara O'Brien, 'Coronavirus: The Online Scams, Apps and Trends You Need to Know about during the Pandemic' *The Irish Times* (Dublin, 9 April 2020) <<https://www.irishtimes.com/business/technology/coronavirus-the-online-scams-apps-and-trends-you-need-to-know-about-during-the-pandemic-1.4223177>> accessed 31 July 2025; Tom Hennigan, 'Brazilian Court Orders Bolsonaro to Release His Covid-19 Test Results' *The Irish Times* (Dublin, 1 May 2020) <<https://www.irishtimes.com/news/world/brazilian-court-orders-bolsonaro-to-release-his-covid-19-test-results-1.4243063>> accessed 31 July 2025; Herrick (n 103). It should be noted that a discussion of fundamental rights did occur in an article by Boran that was not available in the LexisNexis collection. This was in reference to a statement from the Future of Privacy Forum: 'In terms of proportionality, fundamental rights, and data protection and privacy issues, the FoP Forum notes that "a central principle driving the work forward is to 'not allow a health crisis to lead to a weakening of privacy that so many generations before us have fought for'".' Marie Boran, 'Future of Privacy Forum Compares Covid-19 Mobile Apps' *The Irish Times* (Dublin, 16 April 2020) <<https://www.irishtimes.com/business/technology/future-of-privacy-forum-compares-covid-19-mobile-apps-1.4229931>> accessed 31 July 2025.

body and was not directly used by the author.¹⁷¹ A word-search query of the phrase ‘human rights’ or ‘human right’ identified just seven articles in the data set (5 per cent).¹⁷²

When the coverage is examined more closely, an inconsistency of approach to human rights is clear. Notably, discussion of privacy and data protection under the CFR appears to be sidelined in favour of other, less specific, and often older human rights protections (including the UDHR) and general discussion of ‘civil liberties’ and ‘rights’.¹⁷³ Reflecting on this, it might be hypothesised that the EU conception and protection of data protection and privacy as fundamental rights has not fully been integrated into Irish discourse, at least in comparison to the rights protection provided by the Irish Constitution. This is not necessarily surprising. The dearth of specific mentions of fundamental right(s) in this context is likely an authorial or editorial choice made in an effort to communicate complex matters more effectively to the layperson, but this could also be viewed as a missed opportunity to inform. Some articles avoid mentioning rights at all and focus on ‘data protection rules’.¹⁷⁴ It could be argued that this form of representation could normalise the protection of personal data as an everyday responsibility, similar to health and safety duties, and not an esoteric notion that human rights obligations might suggest for some.

This article takes a different view. While the GDPR gives effect to the Charter rights, the jurisprudence of the Court of Justice illustrates the vital importance of the CFR.¹⁷⁵ Not only

¹⁷¹ For example, Herrick states that ‘the European Data Protection Board and the European Data Protection Supervisor have previously warned that any member state that uses the certificate for purposes other than facilitating free movement between EU member states “may lead to unintended consequences and risks to the fundamental rights of EU citizens”’: Herrick (n 103).

¹⁷² Rounded percentage. George Winter, ‘Do We Need Updates on the Health of Our Politicians?’ *The Irish Times* (13 May 2020) <<https://www.irishtimes.com/life-and-style/health-family/do-we-need-updates-on-the-health-of-our-politicians-1.4241907>> accessed 31 July 2025; Karlin Lillington, ‘Coronavirus: Contact Tracing App Raises Privacy Concerns’ *The Irish Times* (Dublin, 3 April 2020) <<https://www.irishtimes.com/business/technology/coronavirus-contact-tracing-app-raises-privacy-concerns-1.4219224>> accessed 31 July 2025; ‘*The Irish Times* View on Vaccine Passports: Rights of People Must Be Upheld’ *The Irish Times* (Dublin, 7 April 2021) <<https://www.irishtimes.com/opinion/editorial/the-irish-times-view-on-vaccine-passports-rights-of-people-must-be-upheld-1.4531216>> accessed 31 July 2025. Sarah Fulham-McQuillan, ‘Strong Legal Basis for Making Covid-19 Vaccinations Mandatory’ *The Irish Times* (Dublin, 27 July 2020) <<https://www.irishtimes.com/opinion/strong-legal-basis-for-making-covid-19-vaccinations-mandatory-1.4313941>> accessed 31 July 2025; Fintan O’Toole, ‘Anti-Lockdown Sentiment given Undeserved Credibility by Political Failings’ *The Irish Times* (Dublin, 2 March 2021) <<https://www.irishtimes.com/opinion/fintan-o-toole-anti-lockdown-sentiment-given-undeserved-credibility-by-political-failings-1.4498149>> accessed 31 July 2025; Herrick (n 103); Lillington, ‘Why We Should Be Slow to Use Tracking Apps in Coronavirus Response’ (n 92).

¹⁷³ See, for example, where Winter refers to art 12 of the UDHR, but not the Charter or data protection law: George Winter, ‘Do We Need Updates on the Health of Our Politicians?’ *The Irish Times* (Dublin, 13 May 2020) <<https://www.irishtimes.com/life-and-style/health-family/do-we-need-updates-on-the-health-of-our-politicians-1.4241907>> accessed 31 July 2025. Another article refers to the principle of proportionality and civil liberties but avoids direct mention of data protection or the Charter Rights Acadia (n 132). Another article mentions ‘rights’ and ‘civil rights’: Jennifer O’Connell, ‘Covid-19 Is Normalising Mass Surveillance of Citizens’ *The Irish Times* (Dublin, 28 March 2020) <<https://www.irishtimes.com/opinion/jennifer-o-connell-covid-19-is-normalising-mass-surveillance-of-citizens-1.4213829>> accessed 31 July 2025; and another article refers to ‘privacy commitments’: Conor Gallagher, ‘Trinity Researchers Question Data Sent from Google Phone Apps’ *The Irish Times* (Dublin, 21 July 2020) <<https://www.irishtimes.com/business/technology/trinity-researchers-question-data-sent-from-google-phone-apps-1.4310217>> accessed 31 July 2025.

¹⁷⁴ See for example, Wilson (n 103).

¹⁷⁵ See, for example, Joined Cases C–293/12 and C–594/12 *Digital Rights Ireland Ltd v Minister for Communications, Marine and Natural Resources and Others and Kärntner Landesregierung and Others* EU:C:2014:238; Joined cases C–203/15 and C–698/15 *Tele2 Sverige AB v Post- och telestyrelsen and Secretary of State for the Home Department v Tom Watson and Others* EU:C:2016:970; Case C–362/14 *Maximillian*

must interferences with privacy and data protection be necessary, proportionate, and pursue a legitimate aim, but they must also respect the ‘essence’ of the right.¹⁷⁶ This makes it clear that not every privacy or data protection restriction will be possible, even with a well-conceived data governance plan. Due to the educative role of the media, and the immense influence the Charter has had on the interpretation and application of data protection law, increased references to the Charter in data protection reporting would be preferable.

7. Conclusion

The Covid-19 tracking application did not ultimately achieve its ambitious goal of helping Ireland return to ‘normal life’ in the wake of public health restrictions.¹⁷⁷ In spite of uptake being ‘higher than other parts of the world’, the level of usage was not enough to register more than a minor effect and issues with Bluetooth reliability and battery drainage were thought to undermine trust in the technology.¹⁷⁸ Notwithstanding this, it was developed in a manner that protected privacy and data protection rights, and even served as a ‘model for products developed in other countries’.¹⁷⁹ Early warnings about the questionable effectiveness of the application proved accurate.¹⁸⁰

This article sought to examine how the *Irish Times* portrayed privacy and data protection during the acute stage of the Covid-19 pandemic (January 2020 to July 2021). Articles were categorised based on the topics covered and coded on the basis of whether the article as a whole portrayed privacy and/or data protection in a mainly positive, mainly negative, or neutral manner. An important limitation to the study is the focus on the coverage of one broadsheet newspaper. While this provides narrower insights than would be possible in a larger study of a more diverse data set, the close examination of the leading outlet for coverage of privacy and data protection issues in the Covid-19 context did provide some notable insights.

This article began by noting that in spite of widespread legal recognition, the rights to privacy and protection of personal data have at times been characterised negatively, particularly in times of crisis. Yet, examination of newspaper coverage during the acute stage of the Covid-19 pandemic reveals that privacy and data protection were generally portrayed in a positive or neutral manner. While the majority of articles were deemed to be neutral in their representation of privacy and/or data protection, significantly more positive representations (37 of 133, 28 per

Schrems v Data Protection Commissioner EU:C:2015:650; Opinion 1/15 (PNR), ECLI:EU:C:2017:592; Case C–311/18 *Data Protection Commissioner v Facebook Ireland Limited and Maximilian Schrems* EU:C:2020:559.

¹⁷⁶ Maja Brkan, ‘The Essence of the Fundamental Rights to Privacy and Data Protection: Finding the Way Through the Maze of the CJEU’s Constitutional Reasoning’ (2019) 20 *German Law Journal* 864; Gloria González Fuster, *The Emergence of Personal Data Protection as a Fundamental Right of the EU* (Springer Science & Business 2014).

¹⁷⁷ Paul Cullen, ‘Covid App to Be Decommissioned despite Thousands Checking Statistics’ *The Irish Times* (Dublin, 14 March 2023) <<https://www.irishtimes.com/ireland/2023/03/14/covid-app-to-be-decommissioned-despite-thousands-checking-statistics/>> accessed 31 July 2025.

¹⁷⁸ Sarah Burns, ‘Concerns Raised about Covid-19 Tracker App’s “Limited Benefits”’ *The Irish Times* (Dublin, 7 April 2021) <<https://www.irishtimes.com/news/health/concerns-raised-about-covid-19-tracker-app-s-limited-benefits-1.4531027>> accessed 31 July 2025.

¹⁷⁹ Paul Cullen, ‘Covid App to Be Decommissioned Despite Thousands Checking Statistics’ *The Irish Times* (Dublin, 14 March 2023) <<https://www.irishtimes.com/ireland/2023/03/14/covid-app-to-be-decommissioned-despite-thousands-checking-statistics/>> accessed 31 July 2025.

¹⁸⁰ Elizabeth Farries, ‘Covid-Tracing App May Be Ineffective and Invasive of Privacy’ *The Irish Times* (Dublin, 5 May 2020) <<https://www.irishtimes.com/opinion/covid-tracing-app-may-be-ineffective-and-invasive-of-privacy-1.4244638>> accessed 31 July 2025.

cent)¹⁸¹ were coded than negative (6 of 133, 5 per cent).¹⁸² In a notable finding, the majority of articles concerning Covid-19 tracking applications depicted privacy and/or data protection issues in a ‘Mainly Positive’ light (24 of 44, 55 per cent)¹⁸³ and no ‘Negative’ representations of privacy and/or data protection were recorded. Close examination of these articles finds significant endorsement for DPIAs, decentralised architecture, and voluntariness. Rather than being depicted as an excessive impediment to the public interest, privacy and data protection considerations are discussed as necessary requirements. Although not uniform, the coverage of Covid-19 tracking applications in particular tended to frame privacy and data protection issues as solvable if proper transparency and data protection by design approaches were taken.

Notably, explicit references to privacy and data protection as human or fundamental rights were relatively scarce, and there was little mention of the Charter. While this may not be an unexpected finding, this article advocates grounding discussions of data protection and privacy in the language of rights and the CFR.

¹⁸¹ Rounded percentage.

¹⁸² Rounded percentage.

¹⁸³ Rounded percentage.