

# Consentfulness: Finding a first principle for consent design

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**consent =**

**a genuine  
choice +**

**understanding  
of the implications**

**a genuine  
choice +  
understanding  
of the implications  
= consent**

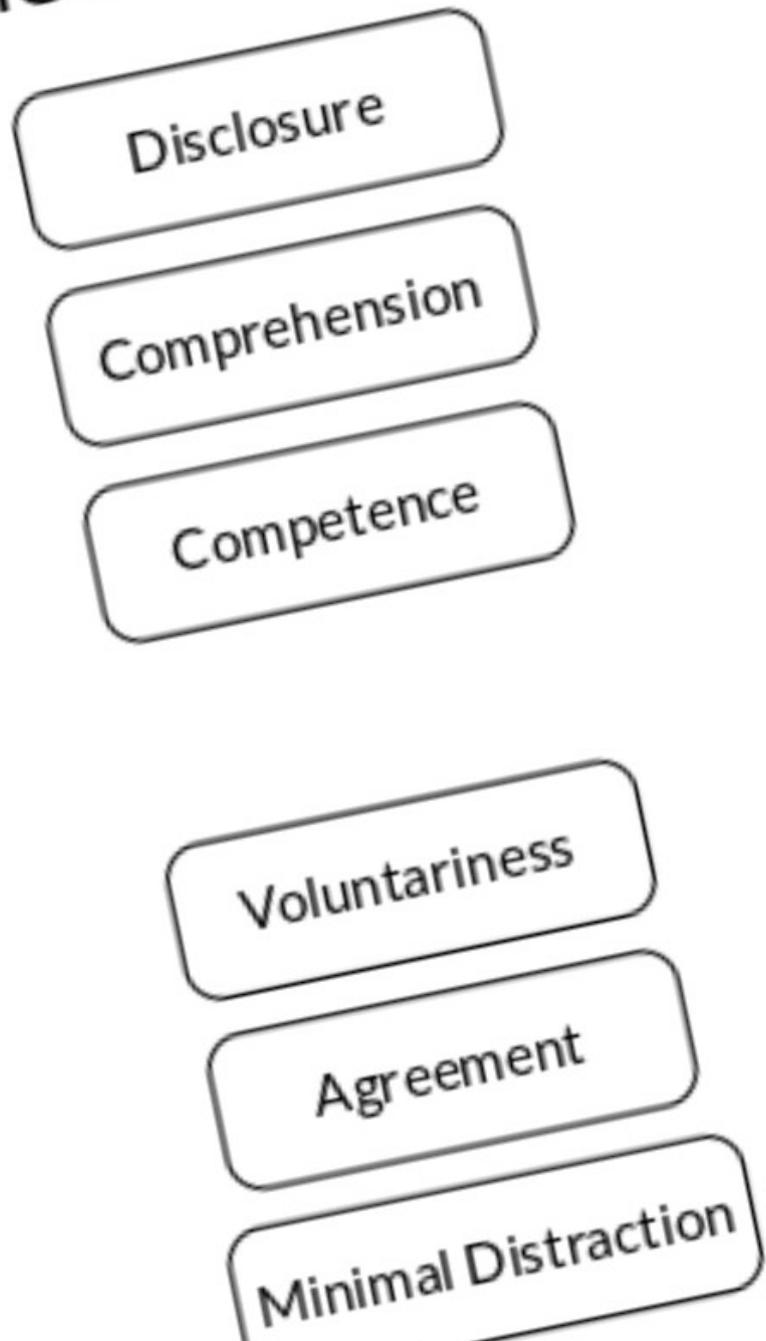
# box-ticking

## ► Definitions

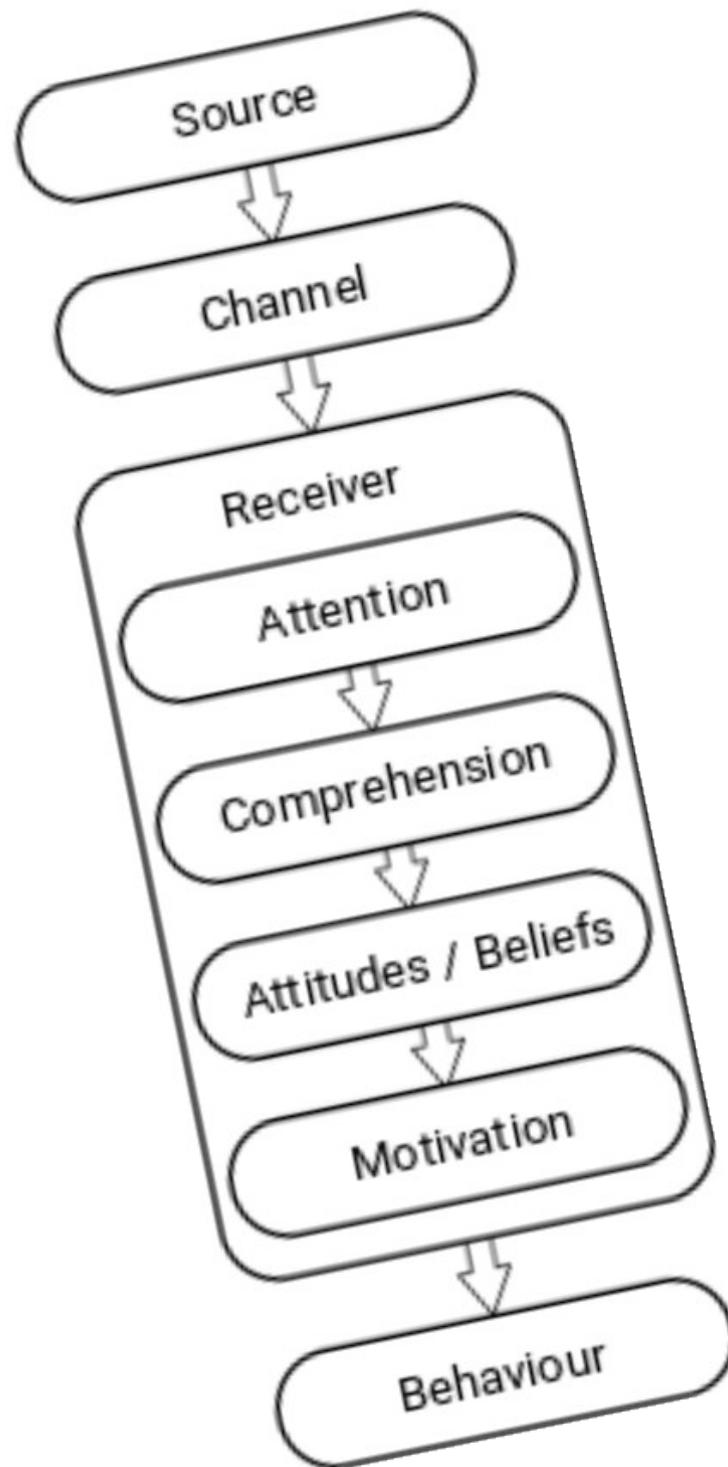
### **noun**

*(derogatory)* the process of satisfying bureaucratic administrative requirements rather than assessing the actual merit of something

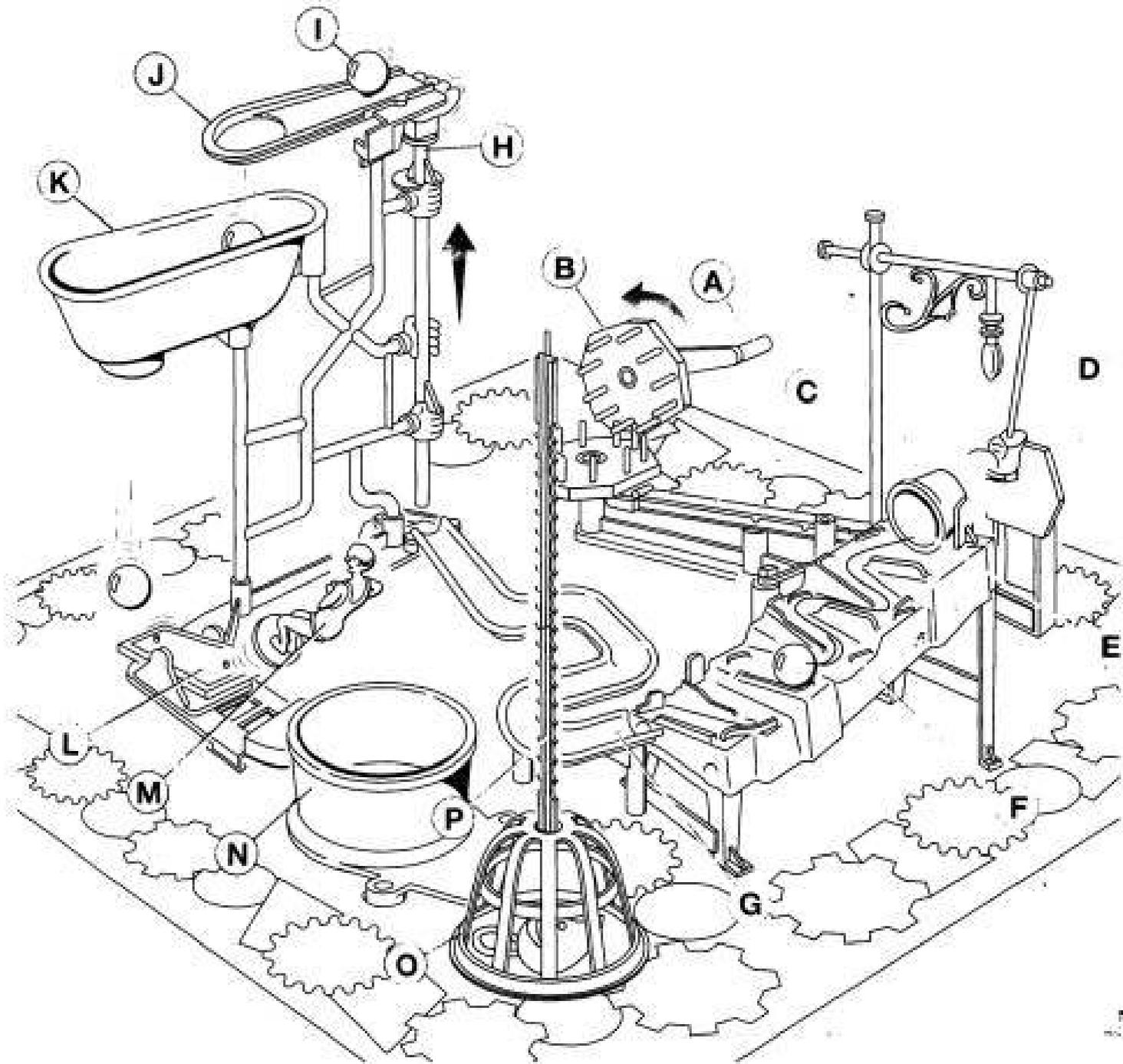
# Friedman et Al

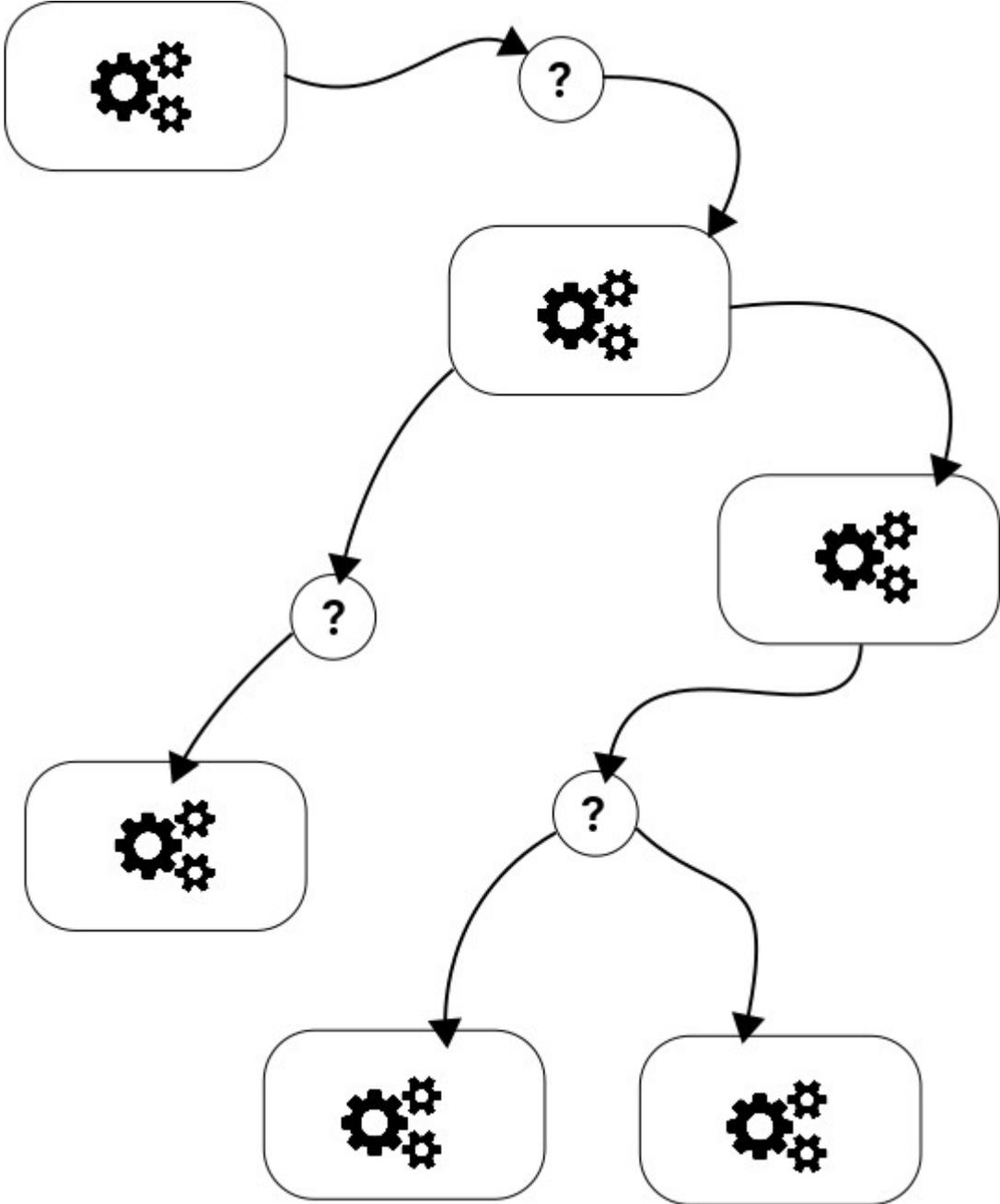


# C-HIP

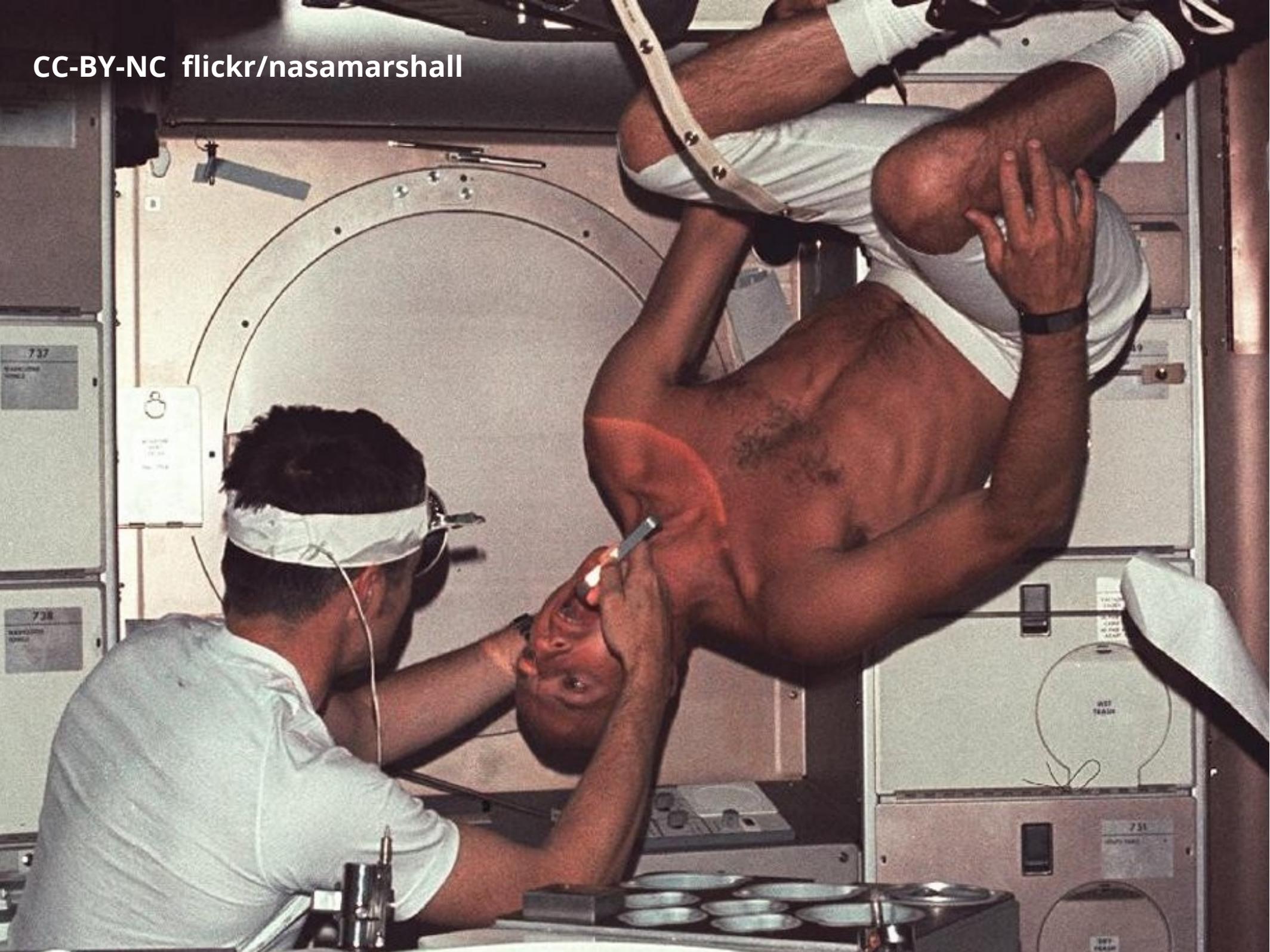








$$1 - \left( \frac{\text{revoked signals}}{\text{total signals}} \right)$$







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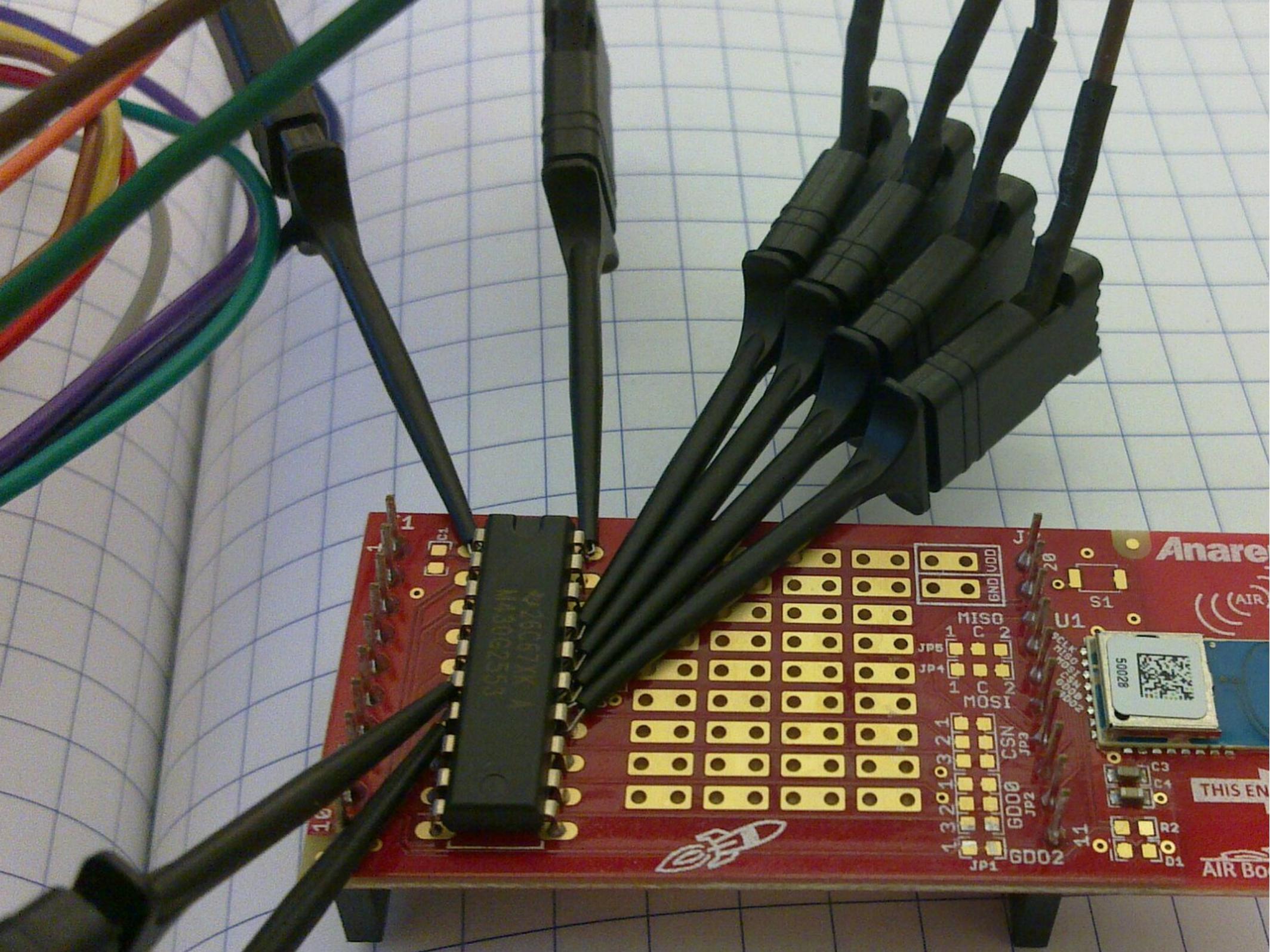
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[CANCEL](#) [I AGREE](#)

Normally think of notice and consent

Like cookies...

This is the dominant class of consent; but it's narrow and restrictive.

**consent =**  
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**choice +**  
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of the implications

The promise of consent – indeed, the reason it has been made a basis for data processing – is that consent, in theory, provides choice and understanding.

MEANINGFUL consent requires a person who understands the choice they've been given choosing to exercise that agency.

But more than that; there are no other fundamental ingredients for consent. Which means that, in the presence of genuine understanding, coupled with actual control, consent is unavoidable.

**a genuine  
choice +  
understanding  
of the implications  
= consent**

Unavoidable because these are fundamental values in a liberal democracy. They are fundamental across much regulation, from food packaging to (of course) data protection.

Of course, in practice these two properties are non-trivial to actually achieve. They are undermined by the bounded rationality and the limited time of digital citizens.

For that reason, we have established some guidelines for how consent should be done in practice.

## box-ticking

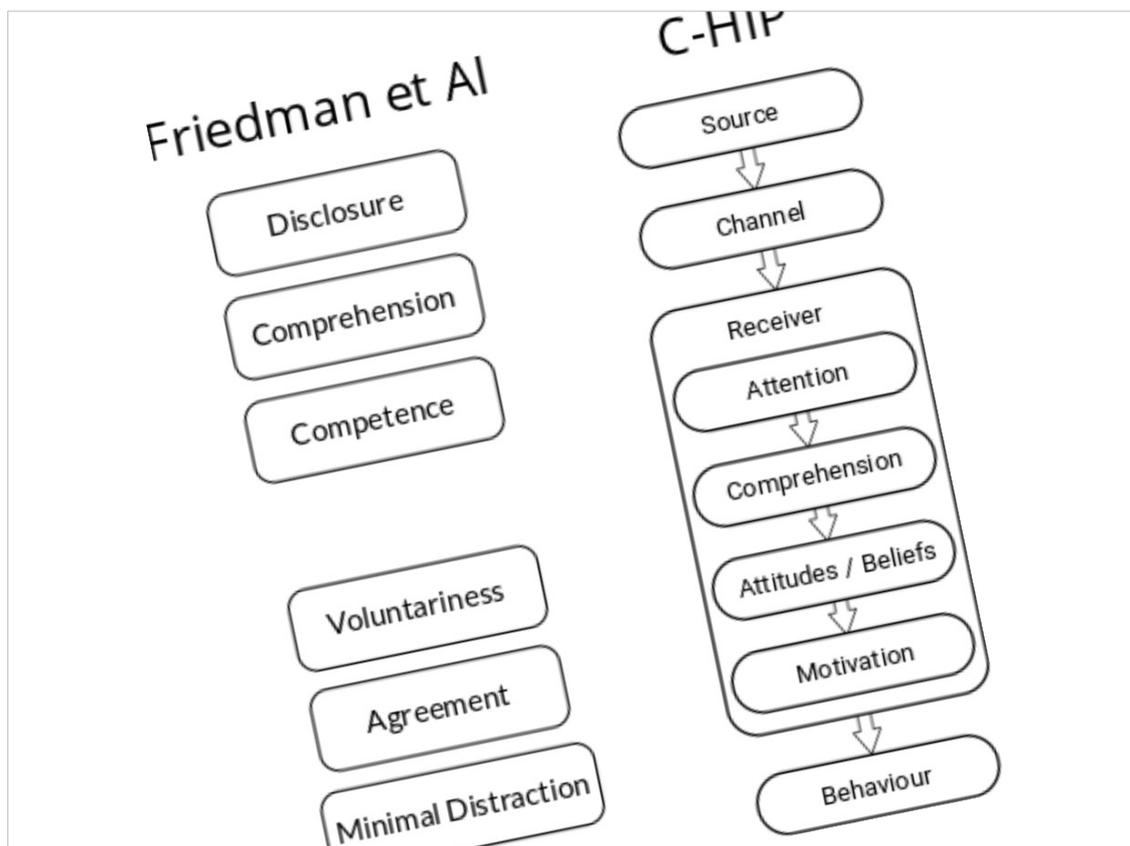
### ► Definitions

#### **noun**

*(derogatory)* the process of satisfying bureaucratic administrative requirements rather than assessing the actual merit of something

But, like the interaction mechanisms that these guidelines usually recommend, they are often no more than box ticking.

Regulators suppose that opt-in or opt-out mechanisms have certain properties; or that “explicit” consent might be better than implicit consent. Even though consent can be simultaneously implicit AND unambiguous.



Academics have plenty of models either about, or applicable to, consent.

From value-sensitive design, we have Friedman's 6-factor model of what seems to be important – from a values perspective – for consent interactions.

From risk management, we have models about communicating information to human beings.

None of these are bad models, but none are grounded in what we might consider the very essence of consent. None provides a single, empirical, way to judge a given interaction or to compare it with others.

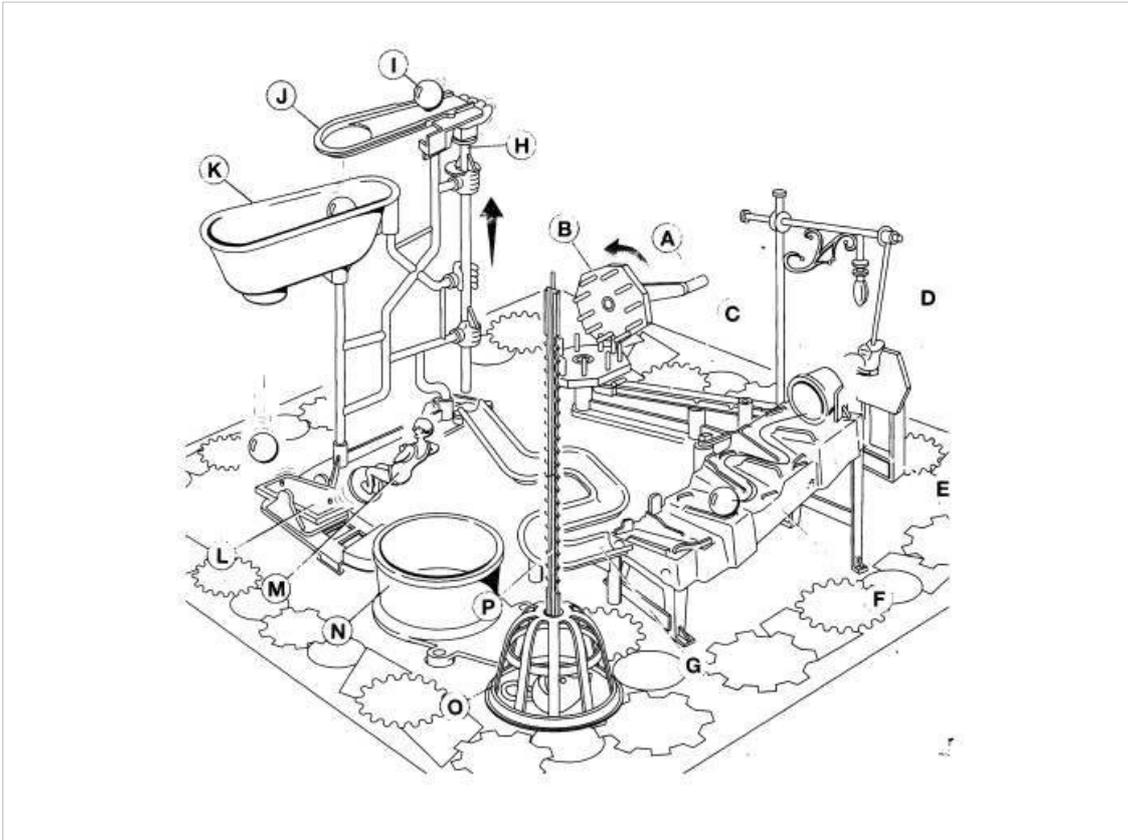
How will we build, evaluate and refine new classes of consent interaction when all our guidelines just describe what the old ones are supposed to look like?



What I think we really care about, is not whether the user has opted in or out, explicitly or implicitly, what colour the text was or how big the box was.

We should care, fundamentally, about whether what actually happened is what the user expected to happen (or at least broadly compatible with their hopes) and the degree of control that was provided.

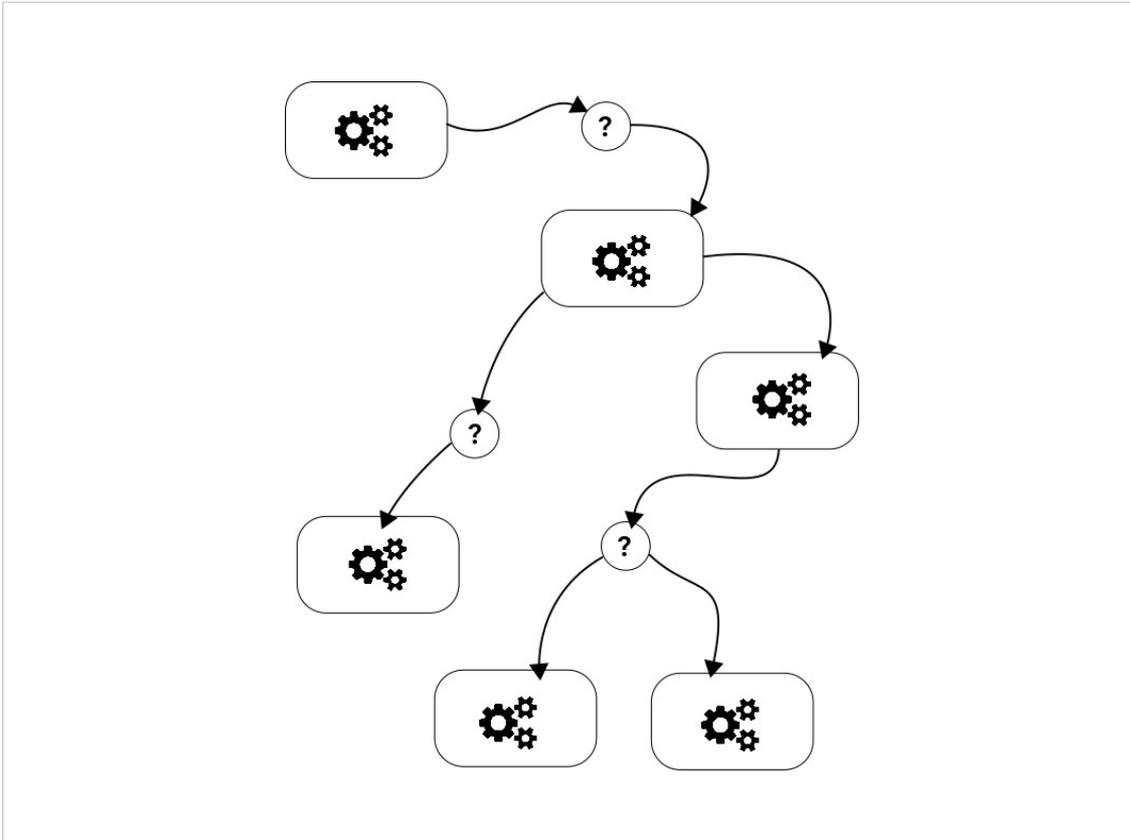
Essentially, consent is a mechanism for managing SURPRISE. A user who has given consent may end up impoverished, miserable or in prison; but they shouldn't be surprised about it. That's what it means to be empowered.



The idea of consent as surprise management opens the possibility of measuring how “consentful” a particular system or individual interaction mechanism is.

Essentially, consent is a point at which a user becomes involved in the causal chain that leads to some process occurring. It is only with their assent that the process takes place.

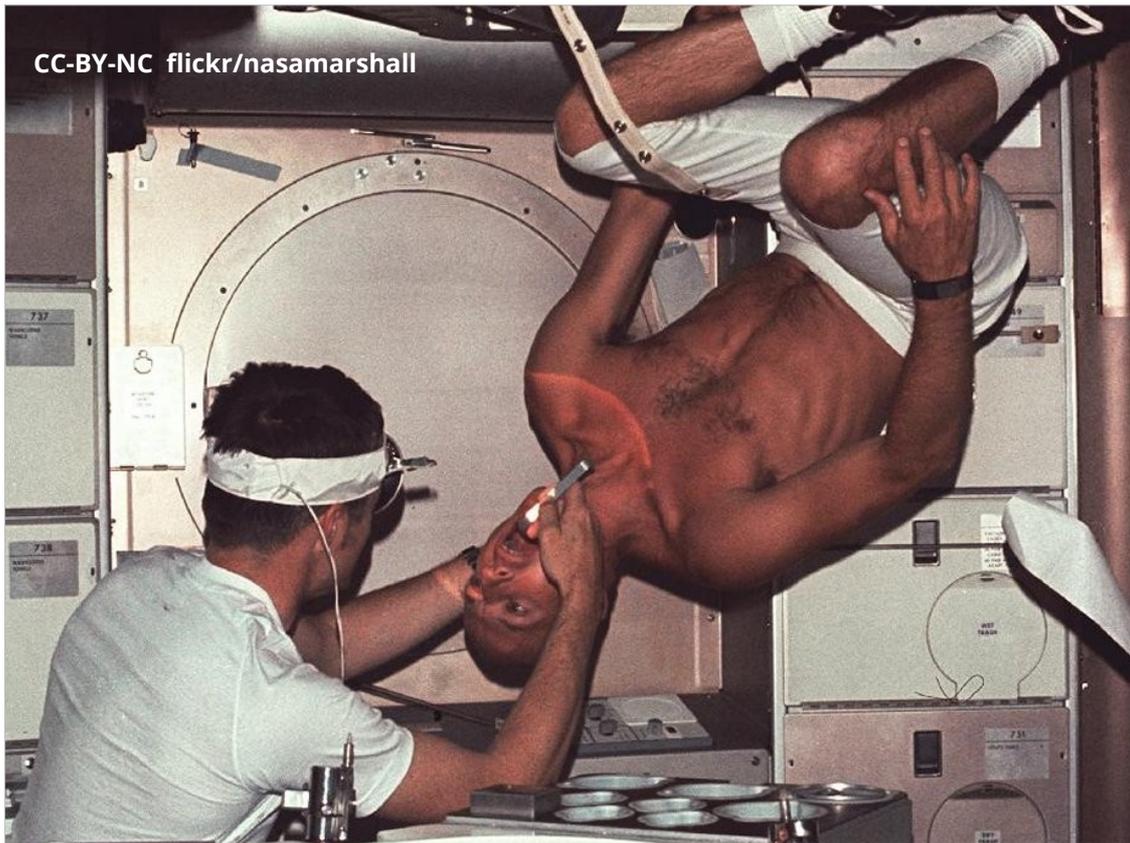
Consent interactions are break points in the digital systems around us.



Consentfulness, then, is (abstractly) the inverse degree to which a future-user chooses (or would choose, given full information) to REVERT the decisions of past-user.

$$1 - \left( \frac{\text{revoked signals}}{\text{total signals}} \right)$$

Then, the consentfulness of the system is the number of revoked consent signals, divided by the total number of consent signals. Then subtracted from one, so that a bigger number means more consent.



Of course, measuring this will require accepted methodologies and will involve (probably) working with end users themselves to evaluate, empirically, the decisions that they make when provided with new interaction mechanisms and then, carefully, identifying which of those actions is genuinely intended – given full knowledge of the consequences – and which is not.



And this is likely to be done at a population level.

Either by experimenting with a sample of that population, and/or by measuring how settings are changed over time

In practice, this probably needs to involve a frank two-way dialogue with users. User concerns are contextual, irrational and diverse. Users have the right to consent, or not, on any grounds, not only “privacy” or “risk” grounds. They can withdraw consent because they don't like your product, your data handling policies or your haircut.

Consentfulness is a measure of how well your interactions help them to make those decisions, however they are reached, in the first place – it is therefore imperative on interaction designers to get across those key facts during the consent interaction. If it IS your haircut, then a headshot might help

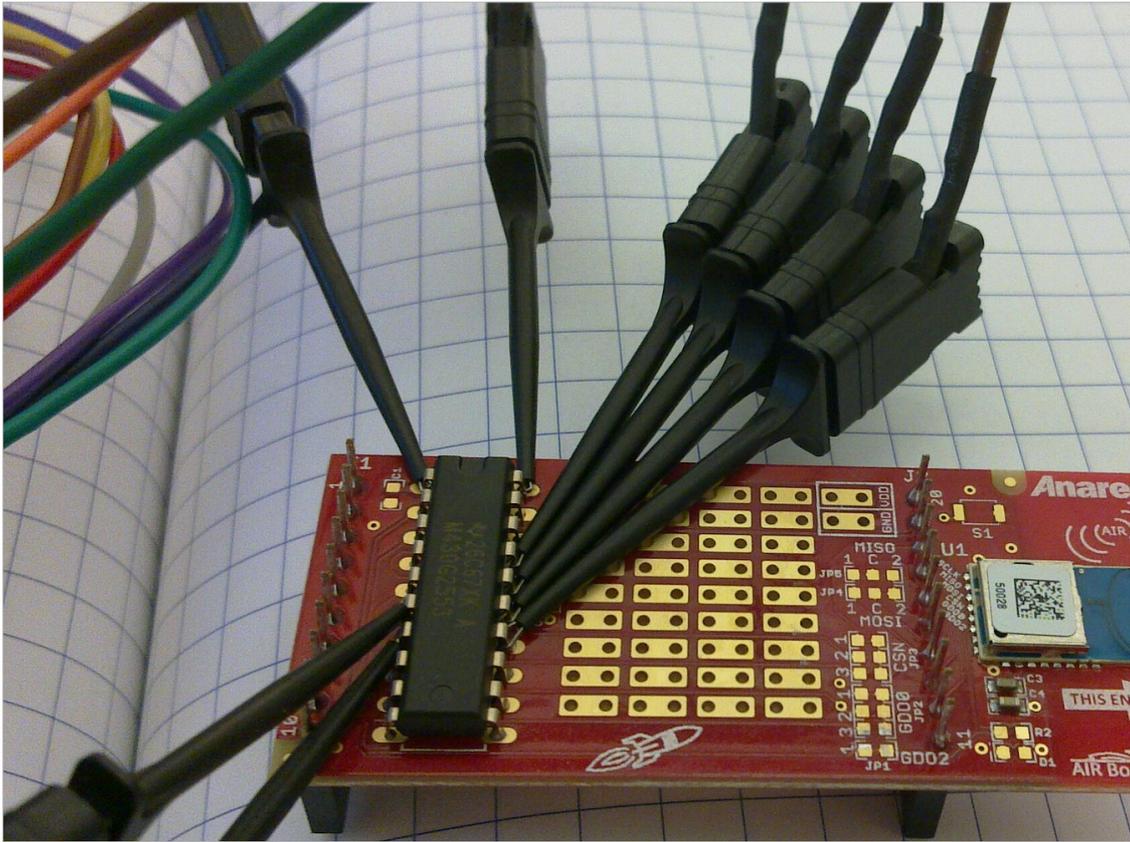


Consentfulness, as a measure, gives credit for users' existing knowledge and expectation. By adopting behaviour that is in line with expectations organisations can avoid much of the effort-intensive “notice” part of notice+consent.

If a service looks like a duck, and quacks like a duck, then a reasonable prediction is that...



Making it WALK like a duck will improve the consentfulness of the system overall.



The exact instrumentation and formulation for consentfulness is far from defined today.

Aside from the specific properties of an empirically measurable metric of consent, in the abstract such a metric has a few key benefits, though:

1. It frees interaction designers from arbitrary and (largely) unscientific descriptions of what policy makers think MIGHT help and instead provides space to try new things and innovate. Things engineers and designers are good at.
2. It allows very different interactions to be compared, objectively.
3. It can provide legal certainty, through objective repeatable methodology, to the evaluation of whether a consent interaction is good enough, removing much (if not all) of the subjectivity that is

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There is obviously still some way to go before we have such a metric, but I hope you are at least intrigued at prospect if not convinced on the theory!

I hope that this venue may be one avenue to take this work forward, and open up some genuine innovation in consent interaction.