

To  
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Oslo 18.10.2017

## **Complaint regarding terms of use and privacy policies for smartwatches / GPS watches for children**

The Norwegian Consumer Council should hereby like to lodge a formal complaint about three smartwatches / GPS watches for children currently on sale in Norwegian shops.

The products in question<sup>1</sup> are:

- **Xplora**: The associated mobile application is called Xplora T1.
- **Viksfjord**: The associated mobile application is called SeTracker.
- **Gator 2**<sup>2</sup>: The associated mobile application is called Gator.

The Consumer Council has examined the terms for downloading and using the apps associated with the watches, and we have had a technical test of the products carried out. We also examined the Tinitell device, but our findings were far less serious than for the other products. Tinitell is therefore not included in this complaint.

See the attached report "*WatchOut – Analysis of smartwatches for children*" from the Norwegian Consumer Council (Appendix 1) and the technical report "*Security Assessment Report GPS Watches for Children*" from Mnemonic (Appendix 2), which provide a detailed description of the findings.

On a general note, the Consumer Council asks the regulators to study the attached reports and to establish whether any breaches of the Marketing Control Act and the Personal Data Act have occurred. In this letter, we will also highlight certain aspects of the documentation that we find to be disconcerting, and we therefore ask that these matters be investigated in their own right.

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<sup>1</sup> For more information about their Norwegian points of contact, see Appendix 1, page 23.

<sup>2</sup> Gator AS launched a new version of the watch, Gator 3, in September 2017. We have not been able to ascertain that Gator 2 is still on sale.



## Background

Society is becoming more and more digitalised, and an increasing amount of devices can now connect to the internet via mobile applications (apps) on smartphones. This provides new features compared to similar, analogue objects. The Consumer Council is anxious to protect the interests and rights of the consumer in this changing world. Previously, we have investigated activity wristbands and toys that can connect to the internet. Now we have looked at smartwatches / GPS watches for children.

All three smartwatches included in this complaint are offered for sale in the Norwegian market, both online and in physical shops. It is possible to get an idea of how prevalent they are in the market by looking at the number of downloads of the associated apps, and compare the figures to information released by the Norwegian importers of each watch.

The app associated with Gator 2 (Gator) has been downloaded between 10 and 50,000 times from Google Play.<sup>3</sup> Gator Norge states on its website that it is “Norway’s best-selling GPS watch for children”.<sup>4</sup> The app associated with Viksfjord (SeTracker) has been downloaded between 100,000 and 500,000 times from Google Play.<sup>5</sup> In July 2017 the importer of Viksfjord celebrated 500,000 watches sold globally.<sup>6</sup> The app associated with Xplora (Xplora T1) has been downloaded between 5 and 10,000 times.<sup>7</sup> Xplora’s Norwegian website claims that it has sold more than 350,000 units internationally.<sup>8</sup> The numbers of Apple App Store downloads are not available to the public.

The market for GPS watches for children is convoluted. We have found similar consumer issues in products sold under different names and by different importers than those included in our investigation. For example, all the different models using the SeTracker application appear to suffer the same problems as those described for the Viksfjord watch (see Appendix 1, page 4).

Our examination looked at certain aspects of the terms of use that have consequences for consumers, and we have applied European legislation as a basis for comparison and evaluation. The study was carried out by downloading the apps from Google Play. Privacy policies for the apps associated with Viksfjord and Xplora were found through the app stores. There are no terms of use for the Gator app.

### How the watches work

You have to download an app to your mobile phone or tablet in order to activate and use the watches. You can do so from Google Play or Apple’s App Store. You also have to set up a user account and pair it with the watch. Next, you can authorise a list of telephone numbers to call the watch.<sup>9</sup> The watches and apps offer different features such as telephony (two-way communication),

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3 <https://play.google.com/store/apps/details?id=com.gatorgroup.carefwatch>

4 <https://www.gatornorge.no/>

5 <https://play.google.com/store/apps/details?id=org.zywx.wbpalmstar.widgetone.uexaaagg10003>

6

<https://www.facebook.com/gpsforbarn/photos/a.579363402219223.1073741828.564882490333981/842597885895772/?type=3&theater>

7 <https://play.google.com/store/apps/details?id=kr.co.infomark.kidzon.pcbeta>

8 <https://xplora.no/>

<sup>9</sup> It is possible to circumvent this security feature in the SeTracker app, by hiding the caller ID before calling the watch.



a real-time map of the child's location, an SOS alarm that the child can activate when needed, and an alarm to alert the parents if the child moves out of a pre-defined zone.

Two of the products (Viksfjord and Gator) are marketed under slogans such as “Your peace of mind, your children’s freedom”. The Consumer Council and Mnemonic’s investigations found that the alarm features in Gator 2 and Viksfjord are unreliable (see Appendix 1 “Functional security”). The shortcomings include the SOS button and the alert sent to the parents when the child leaves a permitted geographical area. When an alarm feature intended to give the parents peace of mind fails to work as it should, it can give the parents a false sense of security.

The Viksfjord app (SeTracker) contains a so-called monitoring function, whereby the app user can use the watch to listen in on the room where the watch is located, without any indication on the watch that this is happening. This could be problematic as the feature is designed to eavesdrop on the room in which the watch is located, without the consent of those present, and without their knowledge that the eavesdropping is taking place.<sup>10</sup>

### **Points of contact – smartwatches**

#### *Xplora*

The Xplora smartwatch uses an app called Xplora T1. The privacy policy names the South Korean firm Infomark Co., Ltd. as the contract party.

We understand that the watch is being imported by Pepcall AS, which we believe to be the sole importer of the watch. The watch examined in our investigation was purchased from Spaceworld Soundgarden.

#### *Viksfjord*

Viksfjord uses the SeTracker app. The privacy policy names the Chinese company AnquanshouhuTechnologies Ltd. as the contract party.

The watch examined in our investigation was purchased from Enklere Liv, and is from what we can gather imported to Norway by Etterforsker1 AS, which markets the smartwatch under the company brand name GPS for Barn.

It is not clear whether a single importer owns the exclusive rights to the Viksfjord watch in Norway, but there is reason to believe that there are multiple importers of similar products, as we have found similar watches with other names than Viksfjord on other websites.<sup>11</sup>

#### *Gator 2*

The Gator 2 smartwatch uses the Gator app. We have been unable to find either a privacy policy or terms of use for this product.

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<sup>10</sup> Read more in the chapter “Other problematic issues” in Appendix 1

<sup>11</sup> The online retailer tveberg.no markets a watch similar to Viksfjord under the name Wonlex GW 100. Jollyroom appears to stock the same product under the name Spectrafence. The watch can be found at the online Chinese retailer AliExpress under the name Wonlex GPS Watch. All of these, along with a number of other versions, also use the SeTracker app and are covered by our findings in Appendices 1 and 2.



The smartwatch is imported to Norway by Gator AS, which we have reason to believe is the sole importer of the product. The watch examined in our investigation was purchased from XXL.

## Points of complaint

The objections the Consumer Council is asking the regulators to investigate further are listed below. Please refer to Appendices 1, 2 and 3 for a detailed description.

### **Lack of consent**

None of the three companies asks for consent to the processing of personal data when setting up an account. There are no terms of use for one of the products, Gator 2 (read more in Appendix 1 “Consent”).

### **Purpose limitation**

Mnemonic’s report (Appendix 2, Chapter 5.3.1) describes how the three products, Xplora, Viksfjord and Gator 2, ask for more permissions in the app than are necessary in order to deliver the service.

### **Third parties**

The Consumer Council thinks that there is cause for concern, because users risk losing control of their own data due to terms of use that give the service providers far-reaching and unspecified permissions to use personal data.

For example, the terms of use for Xplora allow personal data to be used for marketing purposes. This is particularly problematic as Xplora does not ask for consent to process the data, and because it is processing children’s personal data (see Appendix 1 “Purpose limitation”).

### **User accounts cannot be deleted**

None of the four smartwatches for children permits the user to delete their user account or all of their data, including location data (see Appendix 1 “Deletion”).

The Xplora user manual claims that “location history last [sic] maximum 72 hours”.<sup>12</sup> During use, we observed that this did not in fact happen in practice. During its technical testing, Mnemonic also obtained access to location data for other watches years back in time, demonstrating that the data had not been deleted (see Appendix 2, Chapter 4.5).

The absence of the option to delete your user account is problematic when you want to resell your Gator 2 or Viksfjord watch, because the data linked to the user account also remains linked to the product through the unique ID used to activate the watch. The new owner will therefore be able to access information about the previous owner’s use of the watch when they register it.

Add to that the security findings (referred to below), and the Consumer Council believes that the shortcomings are of a serious nature, and asks the Norwegian Data Protection Authority and the Consumer Ombudsman to look into the matter.

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<sup>12</sup> <https://myxplora-uk.zendesk.com/hc/en-gb/articles/115000421894-User-manual-XPLORA-app>



### **Security flaws**

The technical tests (Appendix 2) revealed that unauthorised parties could access personal data and functions in the apps/watches through various forms of attacks. The security findings vary somewhat from watch to watch. Potential attacks could reveal information about the child's location, provide unauthorised access to accounts, allow the attacker to manipulate the information given to the parents about the child's location, enable room bugging and more.

The severity and extent of the security holes suggest that the companies have taken few precautions to safeguard the consumer's personal data. This is particularly serious in light of the fact that it concerns children and their movements.

Since the security findings in the Xplora, Gator 2 and Viksfjord watches were deemed to be quite serious, the Consumer Council presented them to the Data Protection Authority on 1 September. We are aware that the Data Protection Authority has followed up on the three Norwegian points of contact with the goal of making the companies improve security in the products. We also understand that the Data Protection Authority will continue to follow up on the companies with regard to the security findings described in Appendix 2, and we look forward to receiving an update on that process.

### **Unreasonable terms of use**

To conclude, the Consumer Council should like to raise the question of whether the terms of use for the Pepcall and TeleG subscriptions linked to the respective smartwatches are unreasonable. We ask the Consumer Ombudsman to review and consider Appendix 3, which describes the facts of the matter.

### **Summary**

Finally, we should like to stress that the Consumer Council's report (Appendix 1) describes the above-mentioned concerns in more detail, and that it also covers other issues that may be in breach of the Personal Data Act and the Marketing Control Act.

Many of the objections set out in this complaint generally fall within the powers of the Consumer Ombudsman and the Data Protection Authority. The Consumer Council is therefore submitting an identical complaint to both the Data Protection Authority and the Consumer Ombudsman, and urges them to conduct a joint examination of the supporting documentation and some of the objections.

A copy of the complaint is also being submitted to the Norwegian Directorate for Civil Protection for information, since the security flaws are relevant to an ongoing debate about digital product safety.

The Consumer Council awaits the investigation by the regulators, and are happy to be of assistance if further clarification is needed.

Best regards

The Norwegian Consumer Council

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Appendix 1: WatchOut – Analysis of smartwatches for children  
Appendix 2: Security Assessment Report GPS Watches for Children  
Appendix 3: Summary of Pepcall and TeleG subscriptions