

Placer

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Our date:

12.05.2020

Our case:

20/6987 - 3

Your date:

Your case:

Concerning Placer collection of personal data through the app MyDays

Dear madam/sir,

We would like to address a number of issues related to Placer collecting personal data through the app MyDays, as detailed in chapter 6.1.5 of our report “Out of Control”.¹ We find the data collection that we observed Placer engaging in to be alarming from a data protection and consumer rights perspective.

As far as we are aware, Placer has not responded to the findings of the report. Therefore, we want to take this opportunity to outline several problematic practices that we have observed through our work.

We would like to start by saying that throughout our report and this letter, we refer to “personal data” as set forth in GDPR Article 4(1). This includes any information relating to an identified or identifiable natural person, including identifiers such as Android Advertising IDs and IP addresses. As described in chapter 6.1 of our report, location data can be used to identify individuals, and is therefore considered personal data.

We would also like to emphasize that the Norwegian Consumer Council is not a regulatory body or supervisory authority. We are a governmentally funded interest organization working for consumer rights.

When the report was published on January 14th 2020, the Norwegian Consumer Council did not formally file complaints to data protection authorities against the data collection we observed from Placer. However, as far as we understand, the data collection that we observed Placer engaging in lacks a valid legal basis for processing, and consequently does not comply with the GDPR.

On the same day, the Norwegian Consumer Council and other consumer organisations asked data protection authorities to take action regarding all processing activities and sharing of personal data

¹ “Out of Control” <https://www.forbrukerradet.no/out-of-control/>



described in the report.² Additionally, on March 4th 2020, eleven digital and human rights organizations sent letters to their national data protection authorities, voicing concern about the data collection practices from a human rights perspective.³ This call for investigation includes our findings regarding Placer.

As described in chapter 6.1.5 of 'Out of Control', during our testing of the app MyDays, we observed transmissions of personal data such as GPS coordinates and unique identifiers to Placer. Although the Placer privacy policy seems to claim that this is this "is not information that identifies you personally", it is personal data under the GDPR.

If you are a Consumer, we may collect information such as geolocation and proximity data (if you have enabled your device to share location information), IP address, unique device identifiers for advertising (Google Advertiser ID or IDFA) and/or a pixel identifier, event information about your device (such as crashes, system activity, and hardware settings), system configuration information, time and date information, and dwell time near points of interest, as determined through beacon, Wi-Fi, and other signals per our proprietary systems. Generally, the information we collect is not information that identifies you personally.⁴

We acknowledge that third party service providers may need to collect some data in order to provide various in-app functionalities. However, as far as we can understand from the Placer privacy policy, Placer reserves the right to use the data collected from MyDays for a variety of its own commercial purposes.

In addition, we use the information collected for our business, including, without limitation, the follow:

To operate, maintain, enhance, and provide all features of the Services;

To provide support to Placer Customers;

To understand and analyze the usage trends of Placer Customers;

To improve the Services, and to develop new products, services, features, and functionality.⁵

The consumer is not in a position to know how this information may be used or shared, and how to meaningfully be in control. As described in the report, consumers have no way to understand how their personal data is shared with third parties. In short, consumers expect that personal data stays between them and the apps that they use.

Under the GDPR, the processing of personal data requires a valid legal basis. As described in the legal analysis in chapter 8 of 'Out of Control', the collection, compilation and use of personal data for advertising

² "Consumer organisations call to stop online advertising companies' massive surveillance practices infringing EU laws" https://www.beuc.eu/publications/beuc-x-2020-002_letter_to_executive_vice-president_vestager.pdf

³ "Rights Organizations Warn about Unlawful Data Exploitation in Popular Apps" <https://www.liberties.eu/en/news/7-eu-countries-warn-about-unlawful-data-exploitation-of-popular-apps/18864>

⁴ Placer privacy policy [accessed 05.05.2020] <https://www.placer.ai/privacy-policy/>

⁵ Ibid.



and other commercial purposes is often impossible for consumers to understand, and therefore data controllers such as Placer cannot rely on consent for this processing.

Furthermore, the extent of tracking that we observed constitutes a major breach of the rights and freedoms of the individual data subject, which outweighs any legitimate interest Placer may claim to have to process this data for commercial purposes.

Therefore, we cannot see that Placer fulfils any of the relevant legal bases for the processing of personal data that we observed. We expect that Placer changes its practices to bring it into compliance with the GDPR, and delete any data that has been collected without a valid legal basis.

Please do not hesitate to get back to us if we have misunderstood anything about the practices of Placer.

This letter will also be forwarded to Datatilsynet, which is the relevant data protection authority investigating the issues highlighted in our report.

Best regards
The Norwegian Consumer Council

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