

Date: 12.05.2020

Unacast AS
Karl Johans Gate 21
0159 Oslo,
Norway

Concerning Unacast collection of personal data through the app Perfect365

Dear madam/sir,

We would like to address a number of issues related to Unacast collecting personal data through the app Perfect365, as detailed in chapter 6.1.4 of our report “Out of Control”.¹ We find the data collection that we observed Unacast engaging in to be alarming from a data protection and consumer rights perspective.

We are aware that Unacast responded to some of the issues described in the report.² However, 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.

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

² “Selskaper tilknyttet Norge mottok presise GPS-posisjoner fra «sporingsverstinger»” <https://nrkbeta.no/2020/01/16/selskaper-tilknyttet-norge-mottok-presise-gps-posisjoner-fra-sporingsverstinger/>



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 Unacast. However, as far as we understand, the data collection that we observed Unacast 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 described in the report.³ 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.⁴ This call for investigation includes our findings regarding Unacast.

As described in chapter 6.1.4 of 'Out of Control', during our testing we observed Unacast receiving GPS coordinates, the Android Advertising ID, and more from the app Perfect365. Although this has not been previously published, we wish to add some additional facts to our observations regarding Unacast receiving GPS coordinates from Perfect365. During the limited test period performed by Mnemonic, they observed 76 transmissions to Unacast between July 5th and August 7th 2019, containing 223 distinct location elements for our test device. Each of these contained multiple information elements including exact latitude, longitude, and time. In total, 1024 location elements were transmitted to <https://improbability-dot-uc-h2g2.appspot.com/unacastsdk>, but several of these were found to be duplicates.

³ "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

⁴ "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>



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, Unacast reserves the right to use the data collected from Perfect365 for a variety of commercial purposes, including disclosing this data to further third parties such as data brokers. Although the Unacast privacy policy claims that Unacast does not share “any data that can directly identify a user of a mobile device”, this description appears to only include names, phone numbers and e-mail addresses.

In other words, it appears that the limits Unacast places on data sharing does not include personal data such as the Advertising ID or GPS coordinates, despite the fact that this can be used to identify individuals.

We may disclose the data provided by the Partners and the data collected by the SDK with third parties such as advertising networks, advertising publishers, and advertisers, research companies, data brokers, financial institutions, data analytics platforms, in accordance with the terms of the agreements, and only for the purposes of performing such agreements, that we have in place with such third parties. Such disclosures do not include any data that can directly identify a user of a mobile device, such as a name, mobile phone number, or an email address.⁵

The data sharing is particularly concerning since the consumer is not in a position to know how this information may be used, with whom it may be shared and how to meaningfully be in control. Furthermore, we have not been able to locate a complete list of Unacast partners, which makes it practically impossible to know who may receive the personal data, and for what purposes it may be used.

We are also concerned that Unacast appears to operate with a seemingly unlimited period of data retention, with the privacy policy stating that data is retained for “as long as the data is needed” for a large number of different purposes.

⁵ Unacast privacy statement [accessed 05.05.2020]
<https://www.unacast.com/privacy#statement>



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 and sharing of personal data with further third parties is impossible for consumers to understand, and therefore data controllers such as Unacast 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 Unacast may claim to have to provide "location-based services" and other commercial purposes.

Therefore, we cannot see that Unacast fulfils any of the relevant legal bases for the processing of personal data that we observed. We expect that Unacast 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 Unacast.

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

Regards,

Inger Lise Blyverket

Director General

Norwegian Consumer Council

Gro Mette Moen

Acting Director of Digital Services

Norwegian Consumer Council



CC: Datatilsynet
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