



From: Abigail Saul [<mailto:Abigail.Saul@ico.org.uk>]

Sent: 09 June 2016 16:57

To: 

Cc: Darren Read; Simon Rice; Garreth Cameron

Subject: Follow up on ad filtering trial terms and conditions

Hi 

Following my previous correspondence below, a couple of further points.

Firstly, Three's previous stance is noted in terms of the level of information being shared with customers signing up to the trial of a network-level ad filtering technology. I have expressed our concerns about whether the level of information provided is sufficient to ensure that fully informed consent has been obtained, and you have stated Three's belief that sufficient information is given in this context. It is our understanding that a formal complaint is likely to be forthcoming about this trial, and consequently, it would be helpful to either receive further information about the technology as requested previously, or alternatively, for you to expand upon the level of information available to potential participants in the trial terms and conditions (taking into account previous comments around provision of technical information on both sides).

As a second point, in addition to the wider fair processing and informed consent aspect under the DPA, we have also been thinking about the requirements of PECR in respect of the trial, and specifically, the requirements around the processing of traffic data where that processing is being done as a value added service with consent:

8.—(1) Processing of traffic data in accordance with regulation 7(2) or (3) shall not be undertaken by a public communications provider unless the subscriber or user to whom the data relate has been provided with information regarding the types of traffic data which are to be processed and the duration of such processing and, in the case of processing in accordance with regulation 7(3), he has been provided with that information before his consent has been obtained.

The requirements are that information is shared about the types of traffic data to be processed and the duration of any processing. If consent is being relied on under PECR regulation 7(3) because the processing is being undertaken as a value added service, as we understand it to be in this case, then this information must be provided prior to the obtaining of consent.

We note that the trial pages detail a time period for retention of six months. The information in respect of the data to be processed is however limited to:

- "a clever filter"
- "transparently working to get rid of the ads you don't want to see, while keeping the stuff you're really interested in"
- "filter out advertisements on your account"
- "a new technology which will enable our customers to filter out adverts"

- "we may apply the technology to only some of your mobile data usage"
- "you consent to use of your personal network and data usage data being analysed"

We would also have concerns about the sufficiency of the information being shared on this basis under regulation 8 of PECR, in addition to our previously stated concerns from a data protection perspective.

I look forward to your thoughts.

Kind regards

Abi



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From: Abigail Saul
Sent: 01 June 2016 13:22
To: [REDACTED]
Cc: Darren Read; Simon Rice; Garreth Cameron
Subject: RE: Shine - Ad Filtering - Update from Hutchison 3G UK Ltd

Dear [REDACTED]

Thank you for your response, your points are noted.

We definitely accept that quantities of technical detail do not necessarily make things clearer for individuals, however, the point that I wanted to make is that although the terms are clear on some points there is very little detail as to what will happen to individuals' data at all. This in turn could lead to challenges in meeting the standard of consent – and specifically the requirement of consent being fully informed.

Thank you for the clarification.

Kind regards

Abi



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