



Datatilsynet

P.O. Box 458 Sentrum

NO-0105 Oslo, Norway

noyb – European Center for Digital Rights
Goldschlagstraße 172/4/3/2
1140 Vienna, Austria

And

Forbrukerrådet
Postboks 463 Sentrum, 0105 Oslo, Norway

Forbrukerrådet on behalf of [REDACTED], *the Complainant*

Cover Letter

Please find attached three complaints:

- Complaint 1. Grindr, Twitter MoPub, AppNexus and OpenX
- Complaint 2. Grindr and AdColony
- Complaint 3. Grindr and Smaato

Jurisdiction of Datatilsynet:

We request *Datatilsynet* to handle all the three complaints with regard to all the Respondents locally, in Norway. As far as we are aware, there is no controller that has an establishment within the meaning of the GDRR in another EU/EEA member state.

Some Respondents claim in their privacy policies that the controllers responsible for addressing privacy enquiries of the EEA data subjects are entities which are merely Article 27 GDPR representatives. However, Article 4(7) GDPR uses an objective approach for the definition of a “controller”, which pre-empts a mere declaration in a privacy policy. The location of the representative does not meet the definition of an “establishment” and there seems to be no objective evidence that those companies/representatives effectively “*determine the purposes and means of the processing of personal data*” for the Respondents. It seems that their services operate globally and their establishment outside of the EU make all determinations.

This is an overview of the contents of the respective complaints:

Section 1. Parties

ALL complaints: Grindr is included as a Respondent together with other named Controllers.

Section 2. Facts

ALL complaints: include the description of data transmissions between the Grindr app and third party advertisers.

Complaint 1 describes the data sharing from the Grindr app with third parties using Twitter's MoPub as a mediation partner. The categories of personal data being transmitted are similar, with small exceptions like AppNexus receiving the IP address and OpenX receiving keywords.

Complaint 2 describes the direct transmissions from the Grindr app to AdColony. The categories of personal data being shared are similar to the ones in *Complaint 1*, with addition of e.g. user's permission settings, Grindr User ID and the indication of "explicit consent".

Complaint 3 describes the direct transmissions from the Grindr app to Smaato. The categories of personal data being shared are similar to the ones in *Complaint 1*, with addition of e.g. user's permission settings and the consent string.

Section 3. Legal Analysis

ALL complaints: the subject matter of all the three complaints is unlawful sharing of user's personal data between the respective controllers. The Respondents do not have valid consent for the processing of special category data of the Complainant. At the same time, reliance on the legitimate interests by such controllers as AppNexus (*Complaint 1*), AdColony (*Complaint 2*) and Smaato (*Complaint 3*) for the processing activities in question is not possible under the GDPR framework.

In all the three complaints this section includes a legal analysis of Grindr's consent collection method and this part is coherent across the complaints. All the three complaints also explain why other legal bases are inadequate to rely upon for the processing in question.

Section 4. Applications

ALL complaints:

Request to

- investigate the complaints;
- handle them locally in Norway;
- compel the controller to erase all the personal data and stop the processing; and
- impose an effective, proportionate and dissuasive fine.

[Attachments:](#)

- Documentation that the Norwegian Consumer Council meet the criteria set out in article 80 of the GDPR

In addition, a number of attachments relating to the three complaints will be handed over on a memory stick.

[Oslo/ Vienna/ January 14 2020]