

Norwegian Consumer Council/Forbrukerrådet
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1. BACKGROUND

We represent Unacast AS (Unacast) and refer to Forbrukerrådets letter dated 12. May 2020 from the Norwegian Consumer Council (NCC/Forbrukerrådet) to Unacast. Below, we address the statements set out by NCC in the letter and in our discussions in our joint meeting 27 May in Oslo.

Forbrukerrådet's letter is based on the report "Out of Control" from January 2020. It focuses on apps collecting personal data from individuals and sharing it with commercial parties. The letter claims that Unacast lacks legal basis for collecting personal data from Perfect365 and sharing it with its partners.

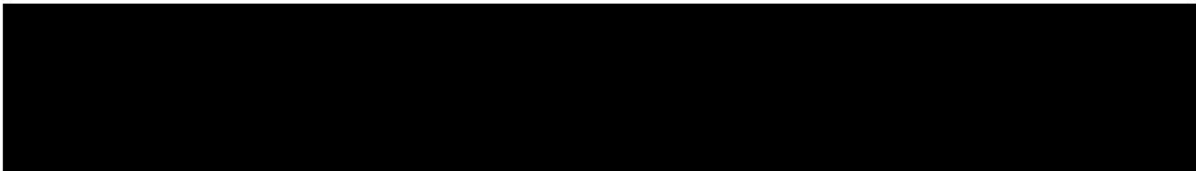
For the sake of good order, Unacast does agree that location data is personal data as defined in GDPR Article 4 (1). Unacast also acknowledges the importance of privacy and have since inception strived to develop business methods that are compliant. This is one of the reasons that Unacast regularly reviews and adjusts its practises, like the privacy program towards app partners, and privacy policy. The latest privacy policy is from May 2020.

As part of its privacy program, Unacast carries out a privacy due diligence on all cooperating partners, in order to validate that privacy principles are upheld. The privacy program involves, among other things, signing specific GDPR and CCPA addendums, as well as reviews of consent screens and privacy policies.

At the same time, Unacast recognizes that the actual interpretation of the principles in the GDPR are evolving, and they therefore welcome any input from the NCC and are open to adjusting business methods if necessary.

Historically, Unacast only works with apps that have legally contracted to uphold the GDPR and CCPA but Unacast also recognizes that they have a moral responsibility to continue to push beyond the legal framework and thus push the entire industry in the right direction. Unacast has an

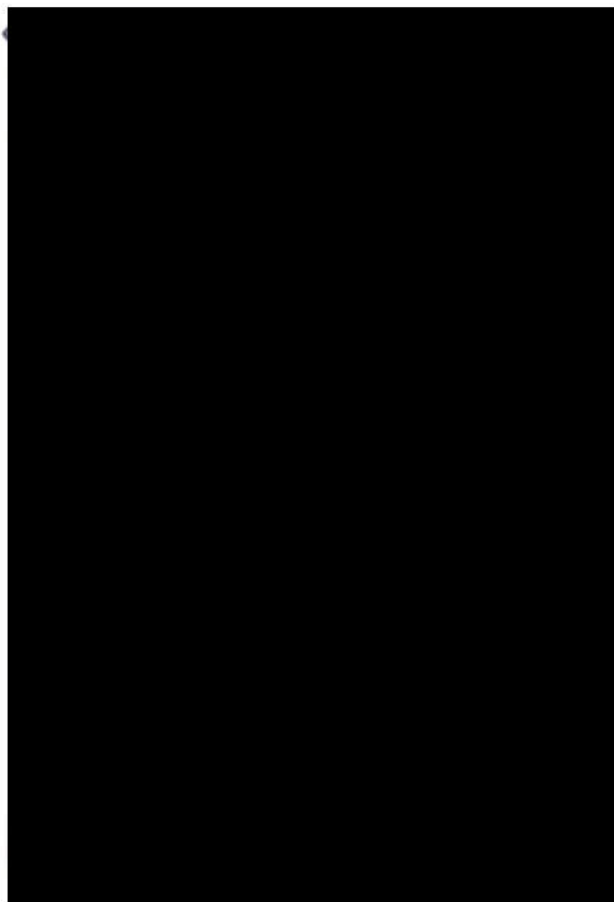
outspoken ambition to be a leader globally in protecting privacy while providing insights based on data to society. So, while the findings in "Out of Control" mainly refers to the business practices of Perfect365, Unacast - as a business partner of Perfect365 - also strive to adapt its practices. Unacast has therefore taken this opportunity to update and further improve the privacy program how to work with app partners.

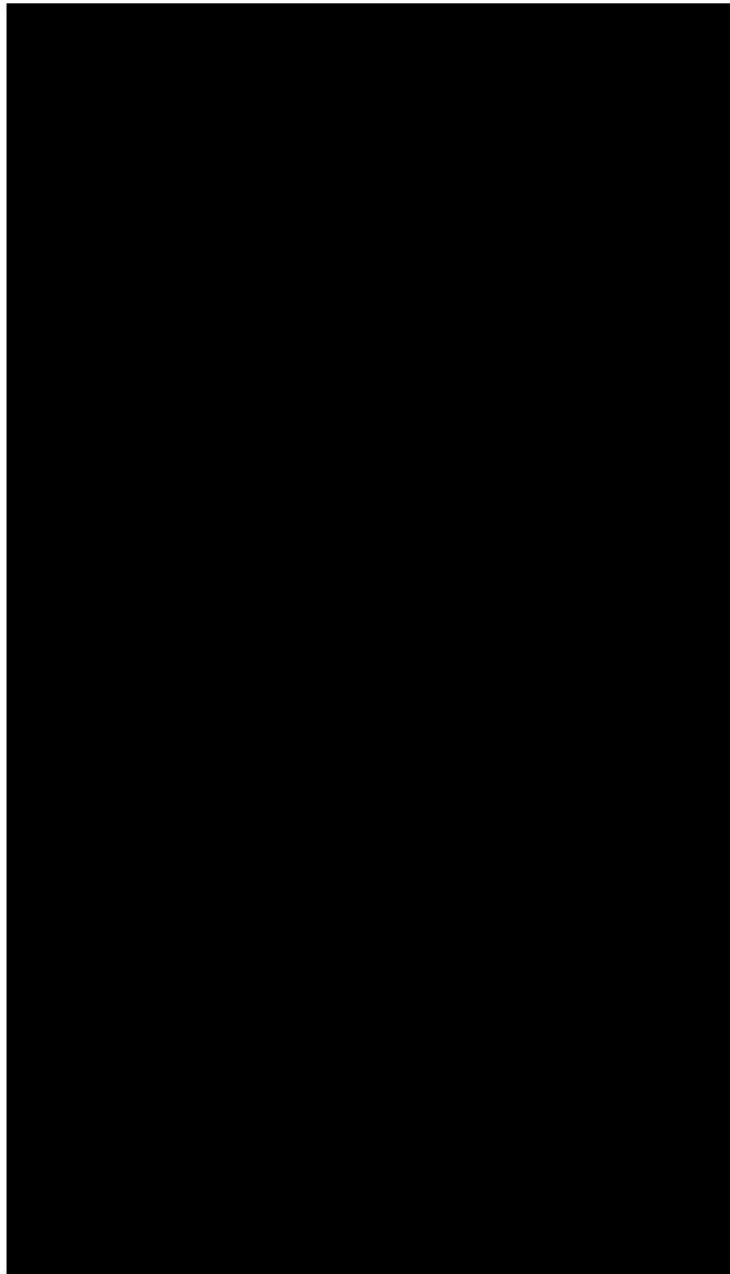


2. LEGAL BASIS

We do not share Forbrukerrådets opinion regarding privacy compliance for Unacast. There is a continued line of legal basis in how the personal data is used, from the individual to Unacast's partners.

Firstly, each individual agrees by consent to the processing when using Perfect365. Below are copies of the documentation provided by Perfect365 to Unacast on this. The screenshot below was submitted to Unacast as part of a privacy due diligence on Perfect365 in early 2019.

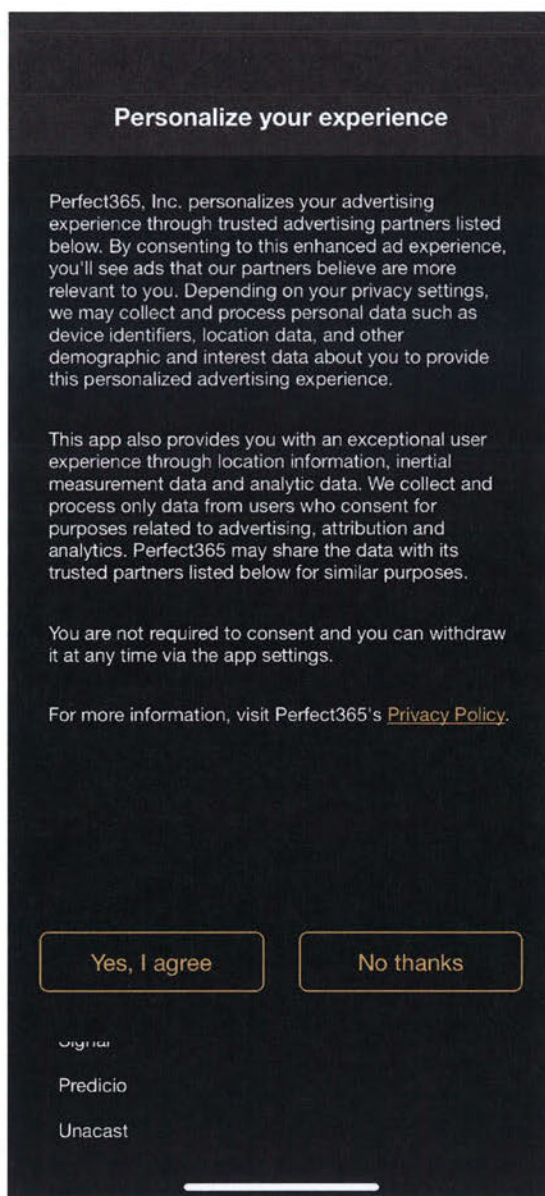




At that time, Unacast was named as a recipient of personal data in their privacy policy (not included in the screen shot).

Below is a screen-shot of Perfect365's present consent layout. The wording of the consents collected by Perfect365 currently and in early 2019 are essentially the same.

The screenshot below clearly shows that Unacast is one of the partners named to users that may receive the personal data.



The consent is freely given. For all versions it is stated that the user is "*not required to consent*".

It is clearly communicated that the consent may be withdrawn at any time.

It is important to emphasize that Unacast has the technological ability to make sure that a withdrawal of consent is communicated to recipients to which Unacast shares data. Thus, if a Perfect365 user withdraws consent and Perfect365 informs Unacast of this, Unacast will delete the relevant data and communicate further to other recipients that they too must delete the data.

Further, it is clear that the actual personal data is *"device identifiers, location data, and other demographic and interest data"* – thereby covering the data received by Unacast. It should be no surprise to the individual that location data is shared.

The purposes are set out to be *"advertising, attribution and analytics"* – thereby covering the processes undertaken by Unacast and its partners. These processes may be described with different semantics, but the content is the same.

Unacast does therefore have a legal basis for processing the personal data it collects. The individuals are given information on how the data will be used. In our view, the wording in the consent is simple to understand and we do not agree that it may not be relied on for Unacast's processing.

3. DISCLOSURE TO THIRD PARTIES

We do not agree that a user having consented to their data being shared with third parties, can *"expect that personal data stays between them and the apps that they use"*, as NCC sets out in their letter. The text in Perfect 365 clearly sets out that the data will be shared with third parties.

Due to the small screen in the Perfect 365 app itself, it is impractical to list absolutely all partners/recipients inside the app while at the same time providing clear and understandable information to the end-user. Unacast is not aware of a good technical solution for this in the marketplace as of today but does expect that to arrive as innovation within privacy was accelerated by the introduction of the GDPR. Perfect365 has opted to list explicit recipients, and categories of recipients (covering the recipients of the recipients).

Irrespectively, we are not of the opinion that Perfect365 is obligated to list recipients of recipients, in order to be compliant. In accordance with GDPR Article 13 (1) e it is sufficient to mention *"the recipients or categories of recipients of the personal data"* where personal data relating to a data subject are collected from the data subject. As the word "or" is used, it shall suffice to list the categories of recipients, as Perfect 365 has done.

Further, it is clear that Unacast supplies a complete list of Unacast's European partners that receive device-ID data in their privacy notice available for all users on Unacasts webpage:

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.

We may also disclose data provided by our Partners to:

Our service providers, such as data storage providers; Public authorities, such as law enforcement, if we are legally required to do so or if we need to protect our rights or the rights of third parties; and

Our subsidiaries and affiliates; or a subsequent owner, co-owner or operator of our services and their advisors in connection with a corporate merger, consolidation, restructuring, the sale of substantially all of our stock and/or assets, or in connection with bankruptcy proceedings, or other corporate reorganization.

For a list of these third parties, and a link to their privacy policies, please see below:

adsquare

CARTO

Datastream Group

Factual

GeoUniq

GroundLevel Insights

Pitney Bowes

Predic.io

Skyhook

Tapad

Unacast is clearly informing what actual parties the data is disclosed to.

The phrase "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." is not meant to allude that personal data is not included, Unacast is well aware that even data without these characteristic is personal data. It is simply meant to render information that these specific data categories are not shared. Unacast will nevertheless review this wording, as NCC finds it unclear. The full list of personal data is set out in item 2 of their privacy policy:

The data provided by the Partners and the SDK may include:

- IDFA and/or advertising identifier ("Advertising ID")
- Location of the mobile device expressed as the latitude, altitude, and longitude of the mobile device and the derived identity of the location, such as a fast food restaurant
- Mobile device operating system and operating system version
- Mobile device make and model
- The name and version of an App
- Other metadata associated with the mobile device, such as network type and IP address
- The category of the App that collected data (i.e. casual gaming, weather, social media)
- GPS horizontal accuracy value

- If the App was in active use or in the background when data was collected
- The speed at which the device was traveling
- If the device was being charged at the time of data collection
- The direction that the device was traveling
- If the device is connected to a WiFi or cellular network
- WiFi SSID (network name) or BSSID (MAC address for the router)
- Nearby SSID or BSSID and the signal strength

4. RETENTION PERIOD

Regarding the retention period, Unacast realizes that the privacy policy is not explicit on how long the data is retained and will add this information in a revised privacy notice.

Do not hesitate to contact the undersigned, should you have any questions to the above.

Yours sincerely

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advokat

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CC: Datatilsynet/Norwegian Data Protection Authority