

Neura

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Our date:

12.05.2020

Our case:

20/6987 - 7

Your date:

Your case:

Concerning Neura collection of personal data through the app MyDays

Dear madam/sir,

We would like to address a number of issues related to Neura collecting personal data through the app MyDays, as detailed in chapter 6.2.2 of our report “Out of Control”.¹ We find the data collection that we observed Neura engaging in to be alarming from a data protection and consumer rights perspective.

As far as we are aware, Neura has not responded to the issues described in the report. Therefore, we want to take this opportunity to outline several problematic practices that we have observed through our work. We understand that VeraSafe has been appointed as Neura’s representative in the EU for data protection matters, and therefore this letter is also addressed to VeraSafe.

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 Neura. However, as far as we understand, the data collection that we observed Neura engaging in lacks a valid legal basis for processing, and consequently does not comply with the GDPR.

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



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.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 Neura.

As described in chapter 6.2.2 of 'Out of Control', during our testing we observed Neura receiving GPS coordinates, Wi-Fi access point data, behavioural events, and more from the app MyDays. Although this has not been previously published, we want to emphasize that Mnemonic observed 150 transmissions to Neura during their testing, all of which included GPS coordinates.

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, Neura reserves the right to use the data collected from MyDays for a variety of purposes, including creating behavioural profiles on consumers, which can be used by Neura's customers.

Raw data from the various data channels, including the iOS or Android channels listed above, is uploaded from an End User's phone over a secured connection to our servers that analyze the data and identify metrics and contextual information. Our system is able to analyze the raw data gathered and identify real-time situations and moments, predict future moments, and compose behavioral profiles and End User personas. Personas are machine learning generated user profiles that represent each user's real-world behavioral traits.⁴

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. As described in the report, consumers have no way to understand how their personal data is shared with third parties for commercial purposes. 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. Since Neura uses the personal data collected through the Neura SDK for its own purposes, such as improving its own services, Neura is a data controller.

As described in the legal analysis in chapter 8 of 'Out of Control', the collection and use of personal data for commercial purposes such as profiling and behavioural targeting is impossible for consumers to

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 Neura privacy policy [accessed 05.05.2020] <https://www.theneura.com/privacy-policy/>



understand, and therefore data controllers such as Neura 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 Neura may claim to have to provide “location-based services”.

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

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

Inger Lise Blyverket
Director General

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Acting Director of Digital Services

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