Office of the Privacy Commissioner of Canada

COLLEGE BESCHERMING PERSOONSGEGEVENS

News Release

WhatsApp's violation of privacy law partly resolved after investigation by data protection authorities

Canadian and Dutch data privacy guardians release findings from investigation of popular mobile app

Ottawa, Canada and The Hague, The Netherlands, January 28, 2013 –The Office of the Privacy Commissioner of Canada (OPC) and the Dutch Data Protection Authority (*College bescherming persoonsgegevens,* (CBP)) today released their findings from a collaborative investigation into the handling of personal information by WhatsApp Inc., a California-based mobile app developer.

The coordinated investigation is a global first, as two national data protection authorities conducted their work together to examine the privacy practices of a company with hundreds of millions of customers worldwide. This marks a milestone in global privacy protection.

"Our Office is very proud to mark an important world-first along with our Dutch counterparts, especially in light of today's increasingly online, mobile and borderless world," said Jennifer Stoddart, Privacy Commissioner of Canada. "Our investigation has led to WhatsApp making and committing to make further changes in order to better protect users' personal information."

Jacob Kohnstamm, Chairman of the Dutch Data Protection Authority, adds: "But we are not completely satisfied yet. The investigation revealed that users of WhatsApp – apart from iPhone users who have iOS 6 software – do not have a choice to use the app without granting access to their entire address book. The address book contains phone numbers of both users and non-users. This lack of choice contravenes (Dutch and Canadian) privacy law. Both users and non-users should have control over their personal data and users must be able to freely decide what contact details they wish to share with WhatsApp."

Key findings and outcomes

The investigation focused on WhatsApp's popular mobile messaging platform, which allows users to send and receive instant messages over the Internet across various mobile platforms. While WhatsApp was found to be in contravention of Canadian and Dutch privacy laws, the organization has taken steps to implement many recommendations to make its product safer from a privacy standpoint. At this time however, outstanding issues remain to be fully addressed.

The investigation revealed that WhatsApp was violating certain internationally accepted privacy principles, mainly in relation to the retention, safeguard, and disclosure of personal data. For example:

- In order to facilitate contact between application users, WhatsApp relies on a user's address book to populate subscribers' WhatsApp contacts list. Once users consent to the use of their address book, all phone numbers from the mobile device are transmitted to WhatsApp to assist in the identification of other WhatsApp users. Rather than deleting the mobile numbers of non-users, WhatsApp retains those numbers (in a hash form). This practice contravenes Canadian and Dutch privacy law which holds that information

may only be retained for so long as it is required for the fulfilment of an identified purpose. Only iPhone users running iOS 6 on their devices have the option of adding contacts manually rather than uploading the mobile address numbers of their address books to company servers automatically.

- At the time the investigation began, messages sent using WhatsApp's messenger service were unencrypted, leaving them prone to eavesdropping or interception, especially when sent through unprotected Wi-Fi networks. In September 2012, in partial response to our investigation, WhatsApp introduced encryption to its mobile messaging service.

- Over the course of the investigation, it was found that WhatsApp was generating passwords for message exchanges using device information that can be relatively easily exposed. This created the risk that a third party may send and receive messages in the name of users without their knowledge. WhatsApp has since strengthened its authentication process in the latest version of its app, using a more secure randomly generated key instead of generating passwords from MAC (Media Acess Control) or IMEI (International Mobile Station Equipment Identity) numbers (which uniquely identify each device on a network) to generate passwords for device to application message exchanges. Anyone who has downloaded WhatsApp, whether they are active users or not, should update to the latest version to benefit from this security upgrade.

Next steps

The OPC and CBP have worked closely together, but have issued separate reports, respecting each country's data protection law (Canada's *Personal Information Protection and Electronic Documents Act* (PIPEDA) and the Dutch Data Protection Act (*Wet bescherming persoonsgegevens (Wbp)*). Following the issuance of their respective reports of findings, the OPC and CBP will pursue outstanding matters independently.

Following investigation, the Dutch Data Protection Act provides for a second phase in which the CBP will examine whether the breaches of law continue and will decide whether it will take further enforcement actions. The Dutch legal framework contains the possibility to enforce the Dutch privacy law by imposing sanctions.

Under Canada's PIPEDA, the OPC will monitor the company's progress in meeting commitments made in the course of investigation. In most cases, companies are cooperative in meeting their obligations, and WhatsApp has demonstrated a willingness to fully comply with the OPC's recommendations. Unlike the CBP, the OPC does not have order making powers.

For full reports of findings, please consult the Dutch and Canadian reports, which can be found online at www.priv.gc.ca and www.dutchdpa.nl

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