

Reference: 1-311982429

7 January 2016

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Information Requests

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Freedom of Information: Right to know request

Thank you for your request for information on data collection policies regarding Ofcom's recently published WiFi Checker for consumers. We received your request on 8 December, via 'Whatdotheyknow.com', which is a website that people can use to make requests for information under the Freedom of Information Act (the Act).

Some of your questions do not technically qualify as Freedom of Information Act requests, as the Act covers recorded information as opposed to requiring authorities to elaborate on published material. However, we appreciate the importance of explaining our collection and use of data and are happy to answer the questions you have raised.

Q1. This app appears to be set to run in the background and periodically activates itself and collects data without the user intending it to run. Please provide detailed information relating to this invisible data collection functionality including any email communications with vendors or app-designers where the functionality of this background processing was discussed and the decision to include it in the Wifi Checker app was made.

A1. The app does not run in the background and periodically activate itself and collect data without the user intending it to run. The only circumstance in which the application will collect data is when the user chooses to run a test. Because the app does not undertake any "invisible data collection" this matter was not discussed with the developers and hence we do not hold any information as described in your request. To remove any ambiguity, the WiFi Checker White Paper, published on our website, has been amended to make this clear. I attach a copy of the revised paper.

Q2. I note that para 4.1 of the app terms and conditions state:

"4.1 You acknowledge that, when the App is used, data will be collected by us or our agents which will be used in pursuance of our statutory functions."

Q2a. Please provide information of who in this situation "our agents" refers to.

A2a. The reference to "agents" in the terms and conditions is to people engaged to act on our behalf in performing a particular task. A good example would be if we commissioned an academic study using some of the data – the researcher may need to access the data for the purposes of the study we had commissioned. Please also refer to the answer to 2c.

Q2b. Please list - in technical detail - what data are collected and to whom it is initially sent and how often.

A2b. This is set out in detail in the attached White Paper (which is also on our website and linked to from the app).

Q2c. Please describe (or provide references to) what statutory functions your organisation has in relation to me as an individual that requires the collection of this data.

A2c. An initial point to note is that the data we are collecting will not identify individuals, and what we would be doing is using it at an aggregated level to fulfil functions for citizens and consumers generally, rather than at an individual level. We have a range of potentially relevant functions under legislation including the Communications Act 2003 and Wireless Telegraphy Act 2006; these include making policy in relation to telecoms, publishing reports to assist consumers, and offering advice. In carrying out those functions, it is our principal duty under section 3(1) of the Communications Act to further the interests of citizens in communications markets and consumers in relevant markets. We must also have regard to a number of items under section 3(4) including encouraging innovation and availability of high-speed data transfer. An example - and an initial area of focus - will be the extent to which Wi-Fi is causing a constraint on broadband quality of experience. That is, we would be looking at how far the performance concerns of consumers generally relate to network issues (broadband speeds) and how far to Wi-Fi limitations in their own premises as there may be different ways of addressing those different issues on the policy level.

I hope you have found the information above helpful and reassuring, but if you have any queries about this letter, please contact me.

Please quote the reference number above in any future communications.

Yours sincerely,

If you are unhappy with the response or level of service you have received in relation to your request from Ofcom, you may ask for an internal review. If you ask us for an internal review of our decision, it will be treated as a formal complaint and will be subject to an independent review within Ofcom. We will acknowledge the complaint and inform you of the date by which you might expect to be told the outcome.

The following outcomes are possible:

- the original decision is upheld; or
- the original decision is reversed or modified.

Timing

If you wish to exercise your right to an internal review **you should contact us within two months of the date of this letter**. There is no statutory deadline for undertaking internal reviews and it will depend upon the complexity of the case. However, we aim to conclude all such reviews within 20 working days, and up to 40 working days in exception cases. We will keep you informed of the progress of any such review. If you wish to request an internal review, you should contact:

Graham Howell
The Secretary to the Corporation
Ofcom
Riverside House
2a Southwark Bridge Road
London SE1 9HA

If you are not content with the outcome of the internal review, you have the right to apply directly to the Information Commissioner for a decision. The Information Commissioner can be contacted at:

Information Commissioner's Office
Wycliffe House
Water Lane
Wilmslow
Cheshire
SK9 5AF