

Attachment to the report 'Appfail – Threats to Consumers in Mobile Apps'

Updated 15. December 2016

## From #appfail to #appwin

- improved app terms and practice for millions of users

The Norwegian Consumer Council (NCC) found several breaches of privacy and consumer laws through analysis of app terms, privacy policies and data flow.

Several apps have changed terms and practice following complaints to authorities, media pressure, engaging consumers and dialogue with service providers.

The Appfail campaign has led to improved privacy and rights for millions of app users globally:

- Runkeeper users are no longer stalked by third party when the app is not in use ('45 million users')
- Tinder has changed terms on several points following complaint to the Norwegian Consumer Ombudsman ('50 million users')
- Payment service Vipps no longer share user information with Facebook ('around 2 million Norwegian users')
- Game app Wordfeud can no longer evict users without a valid reason ('30 million users')

## Health- and fitness apps

### ***Runkeeper users are no longer stalked by third party when app is not in use***

The technical analysis of Runkeeper exposed that the service sends personal data to third party when the app is not in use. The service has not acquired user's consent to this and do not even explain this in the terms of use or privacy policy. This is clearly a breach of European Data Protection Law. In addition, we found the app does not appear to delete personal data as a matter of routine or when the user requests it. Based on this, the Norwegian Consumer Council [filed a formal complaint](#) to the Norwegian Data Protection Authority.

A few days later, Runkeeper [apologized for the data leak](#) claiming it was a mistake and changed the app in both the Android and iOS version, removing the data leak. The service provider and the Norwegian Data Protection Authority had a dialogue about the remaining issues in the complaint, but as far as we can see, changes to terms were not implemented.

### ***Endomondo and MyFitnessPal changed terms***

The company Under Armour owns Endomondo and MyFitnessPal, and has launched [new combined terms](#) for the two apps. The new terms have taken affect. The new terms are more readable, and personal data is defined in a more adequate way, particularly compared to MyFitnessPal's old terms as referred in the Appfail report.



The Norwegian Consumer Council have had a dialogue with the company about issues that remain problematic in the new terms. Based on this dialogue, Under Armour have promised to implement the following changes:

- More of the privacy settings will be opt in, not opt out.
- It will be possible for the user to opt out of indefinite data storage.
- The user will no longer have to waive moral rights or privacy in relation to user-generated content
- Changes to terms will be announced to users *in advance*.
- We also have indication that new terms will clarify that the company needs reasons such as violation of terms for deleting users' accounts.

Other issues, such as an irrevocable licence to user-generated content, is not resolved.

### ***Strava – improvement promised (but not implemented)***

Strava in a letter dated 23. June promised to implement a number of substantial positive change in the terms. As of December 2016, Strava have still not made any of the promised changes.

The NCC will pursue further dialogue with the company in order to usher in these changes:

- ‘... make clear that members will be notified before material changes are made either to these documents or to our services and features. Strava members will need to accept such changes to continue Strava’s mobile applications and services’.
- ‘... include changes to make clear that Strava reserves the right to terminate members’ accounts without notice only in cases where there are serious grounds to warrant immediate termination’

In addition, the service has promised to look into privacy issues regarding information users voluntarily share with the service. This is positive.

One point that the NCC and Strava do not agree upon is the issue of disposing of information: ‘... our revised Privacy Policy will indicate that information will be disposed of securely once it is no longer necessary or relevant to our operations’ (Letter from Strava, 23. June 2016). Personal data should be deleted when storage is no longer necessary to provide the purpose *for the user*. Strava seems to have turned this around, promising to dispose of the data when *the company do not need* the information. Information can be used for multiple purposes and the time span when a company can make use of personal data can be indefinite. Digital services should therefore implement maximum retention period for personal data.

### ***Lifesum – no reply***

We have sent Lifesum a letter, but they have not responded or changed their terms and we are currently considering appropriate next steps.



## Norwegian Apps

### ***Substantial change in Wordfeud Free***

Based on the Appfail report, the service provider Bertheussen AS, has made several positive changes in terms and practice from a consumer and privacy point of view.

An updated version of the app was launched on the 1st of March 2016. Following this, the app no longer, requests permissions we do not understand (see section 5.2 in the Appfail report).

The service has also implemented new terms where:

- Bertheussen AS specify how long personal data is kept. This makes Wordfeud Free the only of the 20 apps that, to our knowledge, specify how long data will be stored by default. Even though five years is a long time, specifying the time span for data storage is a step in the right direction.
- Rights to user-generated content are limited to the time span in which the user has a user account.
- The service now informs about how to delete the account in the app, even though there is still not an option for deleting the account within the app.
- The service now guarantees that personal data will be deleted upon request
- The service provider now need a valid reason for deleting user accounts

### ***Immediate change in Finn.no***

The Norwegian Consumer Council criticised the Norwegian app Finn.no, a platform for buying and selling products and services, for extremely wide licensing to user-generated content. The company immediately announced a change in terms relating to ownership of user content.

### ***Change in Vipps practice***

The Norwegian Consumer Council criticise the Norwegian bank app Vipps for claiming that no data is shared with third parties, while the technical analysis performed by SINTEF shows that data is in fact being shared with Facebook. The service provider has removed this link to Facebook.

The technical analysis uncovered a security flaw in Vipps, which the company was informed about in January. This is as far as we know still not repaired.

### ***mCash initiates a dialogue, fails to follow up***

The banking/money transfer app mCash contacted the NCC after the Minute By Minute terms reading, and received pointers on how to improve the readability of their terms. At the time of writing, no changes have been implemented. The NCC aim to keep a dialogue going.

### ***GuleSider do not store data indefinitely***

Even though the GuleSider app terms do not limit the storage time for data, the service provider Eniro claims that the service routinely deletes all data when the app is deleted. Eniro is working on clarifying this and the routines for deleting old search data in the terms.



### ***Yr.no published privacy policy***

The Norwegian Consumer Council did not find relevant privacy policies or terms for the Norwegian weather service Yr.no. Directly following a round-table meeting with the service providers, the privacy policy was published and linked to the terms of service in the app stores.

## **Social media apps**

### ***New terms for Snapchat***

In Snapchat's new terms and privacy policy, published on the 29<sup>th</sup> of March 2016, some of the issues addressed in the Appfail report have been improved. For example, the service no longer claims a perpetual and in practice irrevocable licence to private user-generated content. In the new terms, the service is also clear about that the content of snaps will be deleted automatically. The Norwegian Consumer Council do not know if these changes have any connection with the Appfail campaign.

Other issues, such as Snapchat not necessarily informing the user about change in terms, and being able to exclude users from the service without a valid reason, do not seem to have changed. Some of the changes in the new terms may also have new problematic implications for user privacy. For example, according to the new terms, the service can use personal data for the purpose of targeted advertising.

### ***Tinder is changing terms following complaint***

In March 2016, the NCC [lodged a complaint about Tinder's](#) terms and conditions, claiming these were unreasonable and unfair to the users, and in breach of European laws. Based on this, the company revised their terms in June and September 2016. As far as we know, the Norwegian Consumer Ombudsman and Tinder is still negotiating, but here are some of the changes implemented so far:

- The age limit for registering an account has been raised from 13 to 18 years old.
- The terms no longer apply for everyone visiting the Tinder website, now they only apply to registered users.
- Tinder now promises to notify users of any material changes to the terms.
- The users' ability to "disable" their account has been changed to "terminate".
- Tinder no longer claims an "irrevocable, perpetual" license to user-generated content.
- Tinder no longer asserts the right to revoke virtual currency without notifying the user.
- The terms now refer to European laws. It is, however, unclear whether the service will pledge to follow European data protection laws.

### ***Happn informs users about sharing data***

While Happn claimed not to share data with third parties, the data flow analysis implies otherwise. Since this app is based in France, the French Data Protection Authority that serves as the relevant authority were notified. The service now informs users in terms about data sharing with third party.



## Complaints to authorities based on the Appfail campaign:

In addition to dialogue, some issues have led to complaints or notification to relevant authorities. These issues are currently not resolved:

### **Tinder, the Norwegian Consumer Ombudsman**

The Norwegian Consumer Council [complained](#) to the Norwegian Consumer Ombudsman, claiming that the American dating app has unreasonable terms on several points. As far as we know, the Ombudsman is still in dialogue with Tinder.

### **MyFitnessPal, the Swedish Konsumentverket**

The Swedish consumer organisation Sveriges Konsumenter has [complained](#) to the Swedish Konsumentverket about unreasonable terms.

### **Runkeeper, the Norwegian Data Protection Authority**

Based on [the complaint](#), Runkeeper changed the app. As far as we know the service and the Norwegian Data Protection Authority is currently having a dialogue about the remaining issues.

*Rather than updating the main [report](#) and publishing new versions continually as the terms change in a more consumer friendly direction following dialogue with the companies, this attachment serves as an update on the changes that we are aware of regarding the terms and practices discussed in the report.*