

Oz Regulator Hauls Google into Federal Court for Alleged Misuse of Personal Data

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Tech giant Google has been hauled into the Federal Court by regulators over allegations it has been misleading consumers about the personal location data it collects, keeps and uses.



Unrepresentative, Pentecostal Dribbler, PM Scott Morrison

The Australian Competition and Consumer Commission (ACCC) said it was the first time a regulator anywhere in world had taken on the global giant, which has a current market value of about \$US880 billion (A1.3 trillion), over the alleged misuse of personal data.

In documents lodged with the court, the ACCC said Google misled consumers when it made on-screen representations about the location data it collected, and in particular about continuing to collect and use personal data against consumers' wishes.

The ACCC said that as such, Google had breached Australian consumer law.

"We are taking court action against Google because we allege that as a result of these on-screen representations Google has collected, kept and used highly sensitive and valuable personal information about consumers' location without them making an informed choice," ACCC chair Rod Sims said.

"This is a world-first case; this action in relation to misrepresentations in relation to the data Google collects, keeps and uses has never been taken before."

Tougher new penalties

Mr Sims noted while some of the breaches were alleged to have occurred under old laws, others may have been committed under a tougher new regime which carries fines of up to 10 per cent of a company's turnover.

"Some of the allegations we're making today are under the old penalty regime, some are under the new, but going forward Australia now has a penalty regime that can actually make a difference," Mr Sims said.

The action centres on protecting the rights of consumers who set up a Google account and accessed their account settings through their Android mobile phones and tablets.

The ACCC said Google's on-screen advice meant consumers were unaware two account settings — one labelled Location History and another labelled Web & App Activity — had to be switched off to prevent personal data from being collected.

In its statement, the ACCC alleged that from January 2017 until late 2018 it was misleading for Google to not properly disclose to consumers that both settings had to be switched off if consumers didn't want Google to collect, keep and use their location data.

ACCC argued that Google account holders trying to maintain their privacy had been misled by Google about what needed to be done.

"Many consumers make a conscious decision to turn off settings to stop the collection of their location data, but we allege that Google's conduct may have prevented consumers from making that choice," Mr Sims said.

"Our case is that consumers would have understood as a result of this conduct that by switching off their Location History setting, Google would stop collecting their location data, plain and simple," Mr Sims said.

"We allege that Google misled consumers by staying silent about the fact that another setting also had to be switched off."

Business model

The legal action targets the heart of Google's business model, with the ACCC alleging the company did not disclose that the data it harvested may be used for a number of other purposes unrelated to the consumer's use of Google's services.

Mr Sims said cracking down on transparency and disclosure of digital platforms, such as Google and Facebook, was a top priority for the ACCC.

"We consider that because of Google's failure to disclose this use of data, consumers were and still are deprived of the opportunity to make an informed choice about whether to share their personal location data with Google," Mr Sims said.

"Transparency and inadequate disclosure issues involving digital platforms and consumer data were a major focus of our Digital Platforms Inquiry, and remain one of the ACCC's top priorities."

Mr Sims noted there could be wider implications for Google and other platforms in the future, but the ACCC deliberately chose a narrow focus on Google and its Android devices in this case.

"I think there are issues with other devices," he said. "

This particular case, as our cases necessarily must be, has narrowed down to the Android devices, so

we wanted to focus the case. Only if you focus it do you get it into court in a reasonable time.

"We had five investigations, in-depth investigations, underway ... the others are still in the pipeline, they'll work their way through. I'd be confident there'll be further action coming at some stage."

The ACCC is seeking penalties, declarations and orders requiring the publication of corrective notices and the establishment of a compliance program.

Google said it was reviewing the details of the ACCC's allegations.

"We continue to engage with the ACCC and intend to defend this matter," a Google spokesperson said in a brief statement.

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[It is worth noting that unlike Australian governments, which routinely bend over backwards to comply with American mega-corps and Washington dictates, Oz regulators act independently of government to protect the interests of the people, as it should be. Perhaps our supine government may learn a thing or two about representing and protecting the rights of the Australian people rather than big business interests! You reading this PM Scott Morrison and the rest of your spineless, custard-faced, elite serving party?]

<https://www.abc.net.au/news/2019-10-29/google-faces-accs-federal-court-misleading-use-of-data/11649356>

Inverse Times Open Publishing. <http://inversetimes.lingama.net/news/story-873.html>