

Karen Smith

From: Vanya Vida <[REDACTED]>
Sent: Thursday, 26 August 2021 3:54 pm
To: Karen Smith
Cc: Keston Ruxton
Subject: ComCom market study into the retail grocery sector - Privacy Commissioner comments

Importance: High

Dear Karen

Thank you for providing the Office of the Privacy Commissioner the opportunity to provide comments on Commerce Commission's draft report into the retail grocery sector.

Firstly we'd like to congratulate you and your team on completing a year-long study into the retail grocery sector.

We've reviewed the parts of the draft report that relate to personal information, in particular how loyalty programmes interact with individual privacy. The report highlights the lack of clarity on how loyalty programmes collect, use and disclose personal information.

Chapter seven of the draft report examines most of the privacy issues and several observations are made, such as:

- Consumer understanding of loyalty programmes appears to be low.
- How consumer data is collected and used by major grocery retailers.
- Personalised or targeted promotional offers.
- Whether terms and conditions governing loyalty programmes are fair to consumers?
- Consumers appear to have limited understanding of data practices.
- Information collected through loyalty programmes includes demographic information, purchase behaviour and other information such as contact information.
- Information collected through loyalty programmes help profile consumers.
- It is not clear how information is disclosed to third parties.
- Privacy policies lack details on collection, use and disclosure.
- Loyalty programmes aren't designed to support portability. This means that consumers in a particular loyalty programme cannot switch to another loyalty programme.

Our key comments on loyalty programmes and privacy practices, based on your research

- It appears consumers do not have sufficient transparency and control over collection, use and disclosure of personal information. This affects the ability of consumers to make an informed choice.
- It appears privacy policies of major retailers do not provide information on how personal information will be collected, used and disclosed in a way consumers can readily understand.
- It is not clear how personal information is used to target market consumers and whether consumer authorisations are sought. It is also unclear if consumers can opt out of targeted or personalised offers.
- It is unclear if on-boarding authorisations are sought from consumers when they sign up to loyalty programmes.
- It is unclear if information collected on purchasing behaviour, demographic information, contact information are automatically linked to in order to profile consumers. Profiling may lead to consumer discrimination and exclusion.
- It is unclear if consumer authorisations are informed and freely given.

We understand you've examined these issues through the competition lens. That said we would thank you for bringing these privacy concerns to our attention, as they may warrant further investigation as to the

compliance of these loyalty programmes with the Privacy Act 2020. We will consider these issues internally, their relative priority with respect to other privacy-related issues and determine our own independent action if necessary. We look forward to seeing the final report, and please don't hesitate to contact us if you require any clarification to the points above.

Kind regards

Vanya Vida

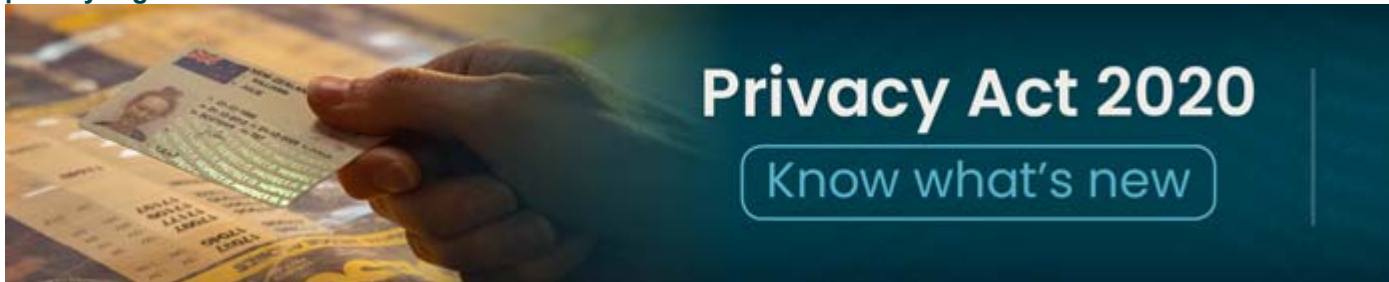
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