

Short notes on:

WHATSAPP'S NEW POLICY - WHY THE BIG FUSS?

Introduction

In recent years the WhatsApp Messenger Application ("WhatsApp") has become the primary communication platform used by South Africans and has also been significantly popular world-wide. Usage of the communication platform was great until the announcement from the Facebook-Group relating to changes in the application's privacy policy created world-wide chaos.

The Announcement indicated that the changes to their privacy policy needed to be accepted by **February 8, 2021**. The new changes to WhatsApp's terms and privacy policy relate to how WhatsApp will share information within the Facebook group of companies and also, how such information will be distributed.

A summary of the changes include:

- Changes to WhatsApp's service and how it processes a user's data;
- How businesses can use Facebook-hosted services to store and manage their WhatsApp chats; and
- How WhatsApp partners with Facebook to offer integrations across Facebook's product portfolio.

The plus side in respect of the new privacy policy is that it does not appear to allow for the collection of a user's message content.

In saying that however, the question everyone is asking is "why?" and "how legal are these new changes?".

Considering the reaction and relative unease of the public in response to the aforesaid changes, the deadline for accepting the changes to the privacy policy has been postponed **15 May 2021**.

Why The New Policy?

Facebook derives income in selling advertisement space and creating platforms to increase revenue for companies that fall within their users' target audience. Word on the street indicates that search history is used in an algorithm that generates other advertisements to induce users into buying things they seem to be interested in. Although changes to the policy do not indicate that WhatsApp will be reading user's messages; they will be entitled to sell personal information collected such as contact details.

What Legislation Protects Us As Citizens Against Exploitation And Misconduct?

The main legal resource which offers a user protection is the *Protection of Personal Information Act 4 of 2013* ("POPIA"). This Act has the following aims:

- to promote the protection of personal information processed by public and private bodies;
- to introduce certain conditions to establish minimum requirements for the processing of personal data;
- to provide for the issuing of codes of conduct;
- to provide for the rights of persons regarding unsolicited electronic communications and automated decision making;
- to regulate the flow of personal information across the borders of the Republic; and
- to provide for matters connected in addition to that.

In addition to the above, the South African information officer regulator who has been appointed to protect the user information in South Africa, has taken the stance that South Africans cannot be strong-armed into handing over certain information and has written to Facebook highlighting its stance in this respect. Considering the recent legal developments in South Africa regarding the protection of information; it appears that we can expect significant and further legal debate, both from the regulator and the public.

What Happens If A User Rejects The New Policy?

The Facebook Group has not been very transparent about the ramifications of denying the policy. They stated that a user would ultimately lose functionality over time. However, the extent of such loss and the date upon which same will occur, remains unclear.

Conclusion

The mere idea of not knowing why or who gets the kind of information provided to WhatsApp appears to be scaring current users of the platform. Users are being told that the rationale behind the changes is to improve efficiency and technical support. However, most users are of the opinion that there is more than meets the eye here. It is therefore, essential to know what you get yourself into before you hit that "accept" button.

Contact an attorney at Schoemanlaw for your legal needs.

