

PRIVACY INTERNATIONAL

19 August 2013

Tim Cook
Chief Executive Officer
1 Infinite Loop
Cupertino
CA 95014
United States

Dear Tim Cook,

I am writing because it has recently been reported in several media outlets that the US National Security Agency is able to conduct surveillance of mobile handsets while they are powered off. As a UK-registered charity that works internationally to defend and promote the right to privacy, Privacy International is extremely concerned by these revelations.

According to the Washington Post, "By September 2004, a new NSA technique enabled the agency to find cellphones even when they were turned off. [United States Joint Special Operations Command] troops called this 'The Find'"^[i]. This report seems to suggest that even while a handset is off, some piece of it remains active and traceable.

In a recent statement, you state, "We will continue to work hard to strike the right balance between fulfilling our legal responsibilities and protecting our customers' privacy as they expect and deserve."^[i] Consistent with Apple's statement regarding the privacy of your customers, we are seeking greater clarification on how your mobile handsets, when powered off, might reveal an individual's location.

For most consumers, when they turn off one of your handsets, they have a reasonable expectation that the device is powered off, is not emitting or receiving a signal, and does not have any piece of the mobile phone still 'on'. If the report is true, a phone being trackable while powered off could have significant implications for the locational privacy of your users.

In addition to your own commitment to uphold the privacy of your customers, Apple also has an obligation to respect the privacy of its handset customers under the First Principle of the United Nations Global Compact. This states that "businesses should support and respect the protection of internationally proclaimed human rights", which includes the privacy of your customers^[iii]. Furthermore, the GSMA Mobile Privacy Principles mandates "a robust and

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effective framework for the protection of privacy, where users can continue to have confidence and trust in mobile applications and services.” The Principles go on to say that they apply to “[d]ifferent stakeholders, such as the relevant service or application provider, the mobile operator, the handset manufacturer and the operating system or other software provider”, which includes Apple [iv].

We should be grateful if you could provide responses to the following questions and where appropriate identify which models of your handsets your answer relates:

1. When the user requests any of your handsets to be powered off, what components, if any remain active i.e. consuming power?
 - a. If some components do remain active, what is the power source for these components i.e. capacitor, battery or power transmitted from an external source?
2. Is there any condition, or set of conditions, whereby components of your handsets would be subsequently activated after the user requests any of your handsets to be powered off, other than by the user requesting the phone to be powered on?
 - a. If some components do activate, can the command or set of commands to activate originate from within the handset hardware?
 - b. If some components do activate, can the command or set of commands to activate originate from within the handset's Operating System?
 - c. If some components do activate, can the command or set of commands to activate originate from a source external to the handset?
3. Do any of your handset's transceivers remain active or become active after the user has requested the handset to be powered off without any further user interaction?
4. Is there any other way of causing one of your handsets to emit a signal while the handset is powered off and without any further interaction from the user?

We would ask you to kindly acknowledge receipt of this letter and consider responding in a timely manner. We look forward to your response.

Kind Regards,

Dr. Richard Tynan
Privacy International

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[i] <http://www.apple.com/apples-commitment-to-customer-privacy/>

[ii] http://www.washingtonpost.com/world/national-security/nsa-growth-fueled-by-need-to-target-terrorists/2013/07/21/24c93cf4-f0b1-11e2-bed3-b9b6fe264871_story_2.html

[iii]

<http://www.unglobalcompact.org/AboutTheGC/TheTenPrinciples/humanRights.html>

[iv] <http://www.gsma.com/publicpolicy/mobile-and-privacy>