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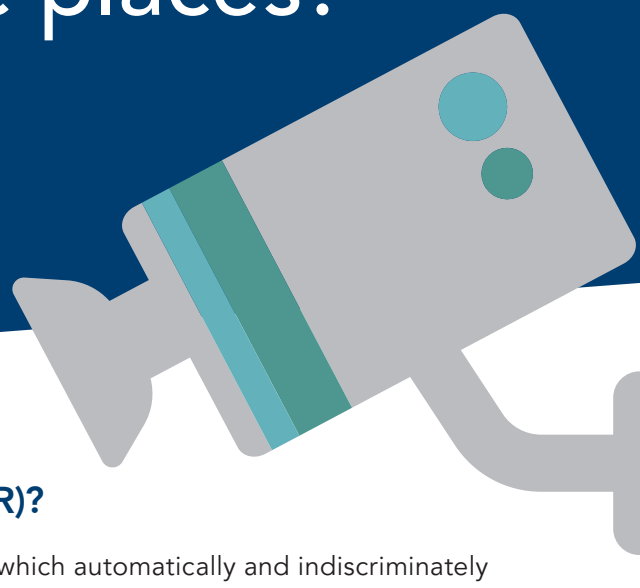
Does your organisation use live facial recognition technology in public places?

If so, you should consult the UK Information Commissioner's ("**ICO**") opinion on the use of live facial recognition technology in public places (see here).



The ICO's opinion on live facial recognition technology

1. What is live facial recognition technology (LFR)?

A type of facial recognition technology, similar to traditional CCTV, which automatically and indiscriminately captures real-time images of individuals typically by passing within range of a camera.

Characteristics of LFR include:

- coverage of a large area
- individuals are potentially unaware that their personal data is being processed, or unaware of the categories of personal data being processed (i.e. biometric data)
- capture of an individual's 'biometric' data, such as fingerprints or facial features, which is treated with greater care as processing is more likely to interfere with an individual's fundamental rights or subject someone to discrimination

Practical examples of LFR

1. Surveillance: shopping centre video surveillance creating biometric images of shoppers which are matched in real-time against stored photos of known shoplifters.

2. Marketing/advertising: Billboards using LFR to target adverts towards individuals from certain demographics.

What about facial recognition technology generally?

The new opinion only applies to LFR, as opposed to facial recognition technology generally. Therefore, there must be a live element to the use of the facial recognition technology.

Example: the opinion will not apply to facial recognition technology deployed to unlock a mobile phone, or verifying a bank payment. These are "one-to-one" processes where individuals are directly aware of how and why their personal data is processed. These are not LFR, which requires real-time, indiscriminate personal data processing.

2. What is a "Public Place"?

The Opinion focuses on the use of LFR in public places.

"Public Place" generally includes any **non-domestic physical space, whether or not publicly or privately owned – such as:**

Public spaces

- public square
- public buildings
- transport interchange
- parks

Privately owned premises

- shops
- offices
- leisure venues

3. Some key takeaways

- The ICO will be referring to the opinion when enforcing breaches of data protection law
- The guidance does not apply to LFR used in private homes or by law enforcement agencies (see the ICO's previous opinion on use of LFR by law enforcement agencies here)
- It is a 'high bar' to achieve lawful use of LFR

If you are using live facial recognition technology in a public place, see the next page for steps you should now consider in light of the ICO opinion. For further information please see our full article here.

Next steps for organisations using live facial recognition technology in public places

Purpose

Identify a specific, explicit and legitimate purpose for the use of LFR

Art 5(1)(b) UK GDPR

Lawful Basis

Identify a valid lawful basis for the processing

Art 6 UK GDPR

Conditions

Identify a condition for the processing of special category data, such as biometric data

Art 9 UK GDPR

Proportionality

Ensure the use of LFR is proportionate to a sufficiently important purpose for the processing

Alternatives

Consider whether alternative measures to LFR, such as regular CCTV, would be sufficient to meet your identified purpose

Limits

Limit the LFR to what is necessary and effective to achieve the specified purpose

Art 5(1)(c) UK GDPR

DPIA

Assess whether a data protection impact assessment is required - which the ICO considers will be likely

Art 35 UK GDPR

Bias

Consider and seek to address any risk of bias or discrimination in the LFR system

Accuracy

Ensure the LFR system is technically effective and sufficiently statistically accurate

Art 5(1)(d) UK GDPR

Contacts

For further information about Mayer Brown's data protection team in London, please contact your usual Mayer Brown contact or the individuals below.

Mark A. Prinsley
Partner, London
E: mprinsley@mayerbrown.com
T: +44 20 3130 3900

Oliver Yaros
Partner, London
E: oyaros@mayerbrown.com
T: +44 20 3130 3698