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18 November 2019

ADVISORY OPINION

Reference No. DPO 19-53

FOR :



SUBJECT : Allowing Google Street View to capture Panoramic Imageries in

UP Diliman

Dear :

We respond to your inquiry on whether UP Diliman will allow Google to capture panoramic imageries of publicly-accessible roads within UP Diliman for Google Street View.

Based on Google, the Street View, by Google Maps¹, is a virtual representation of our surroundings on Google Maps, consisting of millions of panoramic images. Street View's content comes from two sources - Google and contributors. Through our collective efforts, we enable people everywhere to virtually explore the world.²

Imageries can be Personal Information

Personal information refers to any information whether recorded in a material form or not, from which the identity of an individual is apparent or can be reasonably and directly ascertained by the entity holding the information, or when put together with other information would directly and certainly identify an individual. Thus, photographs or videos, which include panoramic imageries, that can be identifiable to an individual is considered personal information.

The processing of Personal Information, including panoramic imageries, shall only be permitted if not otherwise prohibited by law, and when at least one of the following conditions exists:

¹ Google Maps is a mapping and navigation application for desktop and mobile devices from Google. https://www.pcmag.com/encyclopedia/term/62086/google-maps

² https://www.google.com/streetview/

³Data Privacy Act of 2012, Section 3 (g).

- (a) The data subject has given his or her consent;
- (b) The processing of personal information is necessary and is related to the fulfillment of a contract with the data subject or in order to take steps at the request of the data subject prior to entering into a contract;
- (c) The processing is necessary for compliance with a legal obligation to which the personal information controller is subject;
- (d) The processing is necessary to protect vitally important interests of the data subject. including life and health;
- (e) The processing is necessary in order to respond to national emergency, to comply with the requirements of public order and safety, or to fulfill functions of public authority which necessarily includes the processing of personal data for the fulfillment of its mandate: or
- (f) The processing is necessary for the purposes of the legitimate interests pursued by the personal information controller or by a third party or parties to whom the data is disclosed, except where such interests are overridden by fundamental rights and freedoms of the data subject which require protection under the Philippine Constitution.4

Processing personal information without consent

Google Street View will capture Panoramic Imageries of the Data subject⁵ without their consent.

Consent of the data subject refers to any freely given, specific, informed indication of will, whereby the data subject agrees to the collection and processing of personal information about and/or relating to him or her. Consent shall be evidenced by written, electronic or recorded means. It may also be given on behalf of the data subject by an agent specifically authorized by the data subject to do so.6

Google Street View did capture panoramic imageries in UP Diliman

Google Street View already started capturing panoramic imageries in UP Diliman without our consent.

When you search UP Diliman in Google Maps and following the instructions for the Street View⁷, you can explore current and old panoramic imageries of UP Diliman's publiclyaccessible roads.

⁴Data Privacy Act of 2012, Section 12.

⁵ Data subject refers to an individual whose personal information is processed. Ibid., Section 3 (c).

⁶ Ibid., Section 3 (b).

⁷ https://support.google.com/maps/answer/3093484?co=GENIE.Platform%3DDesktop&hl=en

Outstanding Privacy Issues of Google Street View

Though Google Street View addresses the security of individual's privacy, the company still faces outstanding privacy controversies.

Google Street View collects information more than what we know. In an article said, "Google admitted that cars photographing neighborhoods for Street View had also gathered emails, passwords and other private information from wifi networks in more than 30 countries."

United States

United States Department of Defense requested Google to turn down images "which shows where all the guards are. It shows how the barriers go up and down. It shows how to get in and out of buildings." ⁹

United Kingdom

The group Privacy International said in their complaint last 2009 that Google Street View caused "clear embarrassment and damage" to many Britons.¹⁰

Japan

Japanese lawyers and professors expressed their concern, "we strongly suspect that what Google has been doing deeply violates a basic right that humans have."¹¹

Google Street View was used by an obsessed fan to stalk a young pop star and "he allegedly attacked and molested the woman as she entered her building." ¹²

Germany

"The handling of this kind of data needs to be strongly regulated," said Hamburg Commissioner for Data Protection. The column noted that, "Although Google has promised to protect people's privacy, the Commissioner remained skeptical." ¹³

India

"The government has not agreed to the proposal," said Union Minister of State for Home about the proposal to launch the Google Street View.¹⁴

Google Street View is not a necessity

Processing of personal information, including photographs of individuals in panoramic imageries, requires that there is a legitimate purpose. ¹⁵ When we apply the Purpose-

⁸ https://cnnphilippines.com/business/2019/7/23/Google-Street-View-lawsuit.html

⁹ https://www.reuters.com/article/us-usa-military-google-idUSN0625659220080306

¹⁰http://news.bbc.co.uk/2/hi/technology/7959362.stm

¹¹ https://uk.reuters.com/article/us-japan-google-tech/japanese-group-asks-google-to-stop-map-service-idUKTRE4BI1GC20081219

¹² https://www.cbsnews.com/news/japan-man-accused-assault-pop-star-tracked-using-social-media-selfies-google-street-view-today-2019-10-09/

¹³ https://www.dw.com/en/german-foreign-minister-joins-criticism-of-googles-mapping-program/a-5910738

¹⁴ https://www.indiatoday.in/technology/news/story/google-street-view-proposal-rejected-by-indian-government-1198873-2018-03-27

¹⁵ Implementing Rules and Regulations of the Data Privacy Act of 2012, Section 18(b).

Necessity-Balance test, having panoramic imageries of places in a map is a mere convenience, not a necessity.

Given that there are numerous privacy concerns with Google Street View, we suggest that we do not allow them to capture images in UP Diliman in the near future. The future has countless opportunities for UP Diliman to allow Google Street View to capture images in its campus when these outstanding privacy concerns have more clarity.

Please feel free to reach out for clarifications or further concerns.

Yours,



Noted by:

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