

Periscope and Meerkat

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There has been lots of talk recently about the growth in live video streaming apps and in particular Periscope and Meerkat. New technology obviously brings new compliance challenges. Some of this technology is brand new – Periscope for Android was only released on 26 May – but what are the compliance challenges likely to be for businesses?

What is Periscope?

Periscope is a live video streaming application currently available on Apple's iOS and Android. It was initially released at the end of March and then purchased by Twitter for a reported £100 million. Periscope allows users to live video stream from their mobile device with interaction from friends, family or other people they 'know' via twitter. Viewers can interact with the Periscoper by sending hearts in a similar way to a Facebook like.

What is Meerkat?

In some respects Meerkat is a similar application which had its "stable release" in iOS at the beginning of May and with Android a week or so later. It works in a similar way but without as much Twitter integration now after Twitter's acquisition of rival Periscope. The company reportedly raised \$12 million of venture capital in March 2015 and viewers can also connect with Meerkatters and chat with them on Meerkat mid-stream.

What are the risks?

Clearly one of the major risks of both applications is the potentially troubling nature of live content streams. Viewers can request the person filming to film certain content, angles or individuals that they see on screen. There's the potential for unsavoury content to sit alongside the more respectable in much the same way as Twitter's recent issues over its perceived inability to properly police some of the less savoury aspects of Twitter. As with most new technology there is a reputational risk for corporations. But how can they address some of the other compliance issues that are likely to be involved?

Data protection

There are clearly data protection concerns in any application of this type. We've previously reported on the UK Information Commissioner's Office guidance on the use of closed circuit television (CCTV) and the ICO code "*The Data Protection code of practice for surveillance cameras*" which it issued in October 2014. You can see that article [here](#). Clearly both Periscope and Meerkat bring much the same concerns. Any business using these applications would be wise to review the ICO code and some of the issues highlighted in ICO investigations including the Internet Eyes case in 2011 when the ICO took action against a company which crowd sourced the watching of live surveillance footage from retail premises. There clearly are potential data protection concerns and any organisation filming footage in the UK may also need to register with the ICO. There are some details of that process [here](#).

Security

Clearly the fact that the streaming is live and that it can be influenced by people in remote locations poses a security risk. We've been involved in similar cases where the security stance of an organisation has been compromised by a well-meaning employee with a camera phone wandering around secure installations. Companies will need to revise their security, social media and BYOD policies to highlight some of the risks involved with these new apps. But its not just companies who will need to be careful. The BBC reported this morning that Periscope was being used by estate agents to show viewers around properties remotely. Vendors and potential purchasers will need to think carefully about their personal security before signing up to this and will want to review the agent's terms and conditions to make sure the footage does not get into the wrong hands.

Licensing issues

Both of these applications already seem to be used to stream sports and music events. This may well be a breach of licensing terms. Tickets to sporting events and concerts are often sold on the basis that those attending will not take photographs or film whilst in the venue. Using a live streaming app is likely to breach those terms. Already there are rumours of more widespread attempts to bypass other content restrictions. For example it has been reported that Periscope was used to bypass the paywall of the recent Mayweather vs. Pacquiao fight. A television pay-per-view subscription for the fight cost \$90 in the US. It was reported however that pirated streams of the pay-per-view footage were available on Periscope for free. Trade magazine Variety reported that hundreds of thousands of boxing fans watched the fight via Periscope instead of ponying up the cash to watch on their TV. Piracy through live streaming is not a new phenomena. Applications like Periscope and Meerkat will however make it even harder to control.

Class actions

Many people, not just those in the public eye, value their privacy. We've looked at the rise in class actions for data protection and privacy quite a lot recently in our blogs. There's also been litigation in the UK involving a number of well-known celebrities including the footballer Paul Gascoigne and the actress Sadie Frost but also some people who are less in the public eye including a TV producer who was married to an actress and a flight attendant who allegedly

had a relationship with a footballer. In that case the claimants received damages of around £1.2 million after their phones were hacked. It is possible that aggressive live streaming of private conversations could bring similar results.

Transparency

As with anything else on social media or the internet organisations who are sponsoring or promoting live streaming need to be clear with their audience that they are behind the content. A recent ruling from the UK Advertising Standards Authority (ASA) over a YouTube promotion outlined some of the risks. This week the ASA took action after one person complained about the Beauty Recommended YouTube channel. The channel featured a model vlogger (video blogger) giving lip make up tutorials. The text at the bottom of the vlog said "*sponsored by Beauty Recommended, brought to you by Proctor & Gamble*". The ASA upheld the complaint as they did not believe that Proctor & Gamble had been transparent enough in saying that they sponsored the vlog. Properly disclosing who is behind a live stream may be more difficult than disclosures on a recorded platform like YouTube.

Conclusions

The attractions of using this new technology are obvious to many companies. Periscope claims that it signed up its first million users in 10 days. As with any new technology however organisations will need to make sure that they invest in proper compliance before pressing the on button to film.

In this week's TechLaw 10 podcast Jonathan and U.S Lawyer Eric Sinrod discuss the privacy, security and other issues that have come up with the rise of streaming video apps such as Periscope and Meerkat.

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