

The Commissioner,
Commissioner for Data Protection,
Data Protection Commission,
21 Fitzwilliam Square South,
Dublin 2, D02 RD28

By email

April 29, 2022

Complaint against An Post GeoDirectory DAC (“GeoDirectory”)

Dear Commissioner,

1. ICCL is Ireland’s leading not-for-profit human rights organisation. ICCL has been at the forefront of every major rights advance in Irish society in the last five decades. ICCL defends digital and data rights and is mandated under Article 80(1) of the General Data Protection Regulation (“GDPR”)¹ and section 120 of the Irish Data Protection Act² by Ms Olga Cronin and Dr Johnny Ryan. We refer to them as the “data subjects” herein.
2. We hereby make a complaint under Article 77 of the GDPR³ and Section 108 of the Irish Data Protection Act 2018,⁴ regarding infringements of the following provisions of the GDPR by An Post GeoDirectory Ltd. (“GeoDirectory”) with respect to processing of the personal data of the data subjects:
 - a. Lawfulness and transparency, provided for in Article 5(1)a;
 - b. Purpose limitation, provided for in Article 5(1)b;
 - c. Data minimisation, provided for in Article 5(1)c;
 - d. Accuracy, provided for in Article 5(1)d;
 - e. Storage limitation, provided for in Article 5(1)e; and
 - f. Accountability, provided for in Article 5(2).⁵

Facts

Ownership

3. GeoDirectory was jointly established by Ordnance Survey Ireland (OSI) and An Post as a Designated Activity Company, and it was incorporated in 1995.⁶ An Post has a 51%

¹ Article 80 (1) of the Regulation (EU) 2016/679 of the European Parliament and of the Council of 27 April 2016 on the protection of natural persons with regard to the processing of personal data and on the free movement of such data, and repealing Directive 95/46/EC, [2016] OJ L 119/1 (‘General Data Protection Regulation’)

² Section 120, Data Protection Act 2018

³ Article 77, GDPR

⁴ Section 108, Data Protection Act 2018

⁵ Article 5, GDPR

⁶ Enclosure 1 - Solo Check, Credit ReportExtra on An Post GeoDirectory Designated Activity Company (based on the very latest accounts filed by the company for the financial year end 31/12/2020 and accessed on February 16, 2022)

shareholding in the company, while OSI has a 49% shareholding.⁷ GeoDirectory's address is An Post, General Post Office, O'Connell Street, Dublin 1.⁸

4. OSI's ongoing role is reflected in GeoDirectory's Articles of Association.⁹ They provide that OSI holds two directors' seats, and An Post another two. (The relevant Minister designates the final seat.) The directors of the company "manage its business", per Article 40 of GeoDirectory's Articles of Association.

Data

5. GeoDirectory markets a commercial database of addresses and information about people who live at those addresses. Its products "are used by local, national and international companies".¹⁰ On its website, GeoDirectory describes itself as "experts in location address data"¹¹ and sells data about Irish residential and commercial addresses to companies and organisations from its website.¹²
6. GeoDirectory's website characterises its business as follows: It enables companies to "maximise the value of their customer information every day",¹³ and helps them to both "convert data into a profit-making resource"¹⁴ and "find and target new customers, both business and residential".¹⁵
7. GeoDirectory markets what it describes as social demographic profiles about people. Clients can "access life stage and income profiles to increase sales" and use its "social demographic profiles to identify and develop sales opportunities for your products and services".¹⁶ It says, "Each profile brings together two key drivers of consumers' purchasing behaviour - life stage and income level".¹⁷
8. Social demographic characteristics associated by GeoDirectory with people's homes include income indicators such as, "struggling", "comfortable", "budget conscious", and "prosperous"¹⁸ and indications of life stage such as, "starting out", "raising families", "empty nesters", and "retired".¹⁹
9. By way of example, GeoDirectory says that a solicitor's office could target customers who fit the "prosperous empty nesters" demographic in the knowledge that they "would be thinking about" revising their will or buying a property overseas.²⁰
10. GeoDirectory says it provides other data and data services, too. A senior representative told an industry event in March 2019 about its consulting service:

⁷ *ibid.*

⁸ *ibid.*

⁹ Enclosure 2 - Constitution of An Post GeoDirectory Designated Activity Company

¹⁰ "GeoDirectory", LinkedIn (URL: <https://ie.linkedin.com/company/geodirectory>)

¹¹ "About Us", GeoDirectory (URL: <https://www.geodirectory.ie/about-us>)

¹² GeoDirectory (URL: <https://www.geodirectory.ie/>)

¹³ "Benefits of using GeoDirectory", GeoDirectory (URL: <https://www.geodirectory.ie/products-services/benefits>)

¹⁴ "About Us", GeoDirectory (URL: <https://www.geodirectory.ie/about-us>)

¹⁵ "Target New Customers", GeoDirectory (URL: <http://www.geodirectory.ie/products-services/benefits/target-new-customers>)

¹⁶ "AddressFix, Social Demographic Profiling", GeoDirectory (URL: <https://addressfix.ie/social-demographic-profiling>)

¹⁷ *ibid.*

¹⁸ *ibid.*

¹⁹ "AddressFix - Social Demographics Analysis", GeoDirectory (Archived at URL: <https://vimeo.com/199184188>)

²⁰ "AddressFix, Social Demographic Profiling", GeoDirectory (URL: <https://addressfix.ie/social-demographic-profiling>)

“...data solution services, which is basically a consultation service where we come out and help you look at different ways of integrating our data sets with other data, or with your existing data”.²¹

11. That same presentation mentioned GeoDirectory adding the following additional data to its products:
 - a. Deprivation Index; and
 - b. Crime statistics
12. The CEO of GeoDirectory, Dara Keogh, stated in a GeoDirectory webinar that the characteristics associated by GeoDirectory with people’s homes include:²²
 1. The value of the property in Euro;
 2. The area of the building in square metres;
 3. The number of floors in the building;
 4. The actual date of property sold;
 5. Building energy ratings (BER) for the area; and
 6. The year in which the home was built.
13. By its own admission, the data processed by GeoDirectory can be combined with other data to single out individuals. GeoDirectory markets its data as a means to “add even more value to your data”.²³
14. GeoDirectory markets an AddressFix product. It says that “All residential addresses on the AddressFix database have been assigned a social demographic profile”.²⁴ GeoDirectory explicitly says that this data is intended to be combined with data already held by GeoDirectory’s clients, and goes so far as to offer a “No match, no charge” promise. In other words, if GeoDirectory is unable to provide data about an existing customer, there is no charge.²⁵
15. Under the headline, ‘Our Social Demographic Profile service is easy to access’, GeoDirectory’s website encourages clients to simply upload their customer address database and, in return, “the social demographic profile will be added to each verified address”.²⁶ These profiles include ‘struggling starting out’; ‘comfortable retired’; ‘prosperous starting out’; and ‘budget conscious empty nesters’ but also profiles related to raising families.²⁷
16. Elsewhere, GeoDirectory acknowledges that:

“A purchaser of the GeoDirectory may subsequently combine the GeoDirectory database with their own or a third party database. It may occur in this case that the

²¹ Presentation by Steven Grover, Head of Growth for GeoDirectory, Croke Park, 28 March 2019 (Archived at URL: <https://vimeo.com/335103525>).

²² “GeoDirectory Webinar Showcases Exciting New Products”, GeoDirectory (URL: <https://register.gotowebinar.com/recording/2353135621113996033> and <https://www.geodirectory.ie/news/geodirectory-webinar-showcases-exciting-new-product>). Archived version preserved by ICCL here <https://vimeo.com/699401166>).

²³ “GeoAddress SmartData”, GeoDirectory (URL: <https://www.geodirectory.ie/products-services/geoaddress-smartdata>).

²⁴ “AddressFix: Social Demographic Profiling”, GeoDirectory (URL: <https://addressfix.ie/social-demographic-profiling>).

²⁵ “AddressFix: Pricing”, GeoDirectory (URL: <https://addressfix.ie/Pricing>).

²⁶ “AddressFix: Social Demographic Profiling”, GeoDirectory (URL: <http://addressfix.ie/social-demographic-profiling>).

²⁷ *ibid.*

resulting database now contains personal information under the General Data Protection Regulation”.²⁸

17. GeoDirectory’s website lists a wide range of customers including the Central Statistics Office (CSO), insurance companies, including health insurance companies, county councils, property websites, electricity and gas suppliers, supermarkets, pizza companies and taxi firms. For example, GeoDirectory states that it helped the insurance firm Aviva to perform “claim pattern analysis”.²⁹

18. GeoDirectory states that the data broker firm Experian has:

“incorporated GeoDirectory into its advanced information systems, which include: credit ratings [and] geo-demographic profiling...”³⁰

19. Despite acknowledging that the data can indirectly single out individuals, GeoDirectory’s website says:

“The An Post GeoDirectory database holds no personal information and therefore is unaffected by the General Data Protection Regulation.”³¹

Joint-controllers

20. Article 4(7) of the GDPR states:

“‘controller’ means the natural or legal person, public authority, agency or other body which, alone or jointly with others, determines the purposes and means of the processing of personal data; where the purposes and means of such processing are determined by Union or Member State law, the controller or the specific criteria for its nomination may be provided for by Union or Member State law”³²

21. GeoDirectory is a data controller of personal data that it processes.

22. An Post and Ordnance Survey Ireland appear to be controllers, too.

a. First, they own GeoDirectory and established it for the purpose of operating a data sales business. According to Article 3 of its Memorandum of Association, a purpose for which it was created is:

“To carry on the business as developers of databases containing mapping co-ordinates, address information and other information to collate, prepare, compile and distribute maps, location information, street indexes, guides and similar documents including electronically generated documents and to operate as wholesalers and retail dealers and licensors of such databases...”³³

b. Second, they “manage its business” per Article 40 of GeoDirectory’s Articles of Association, and thereby exert a dominant influence³⁴ over it. It is unarguable that they organise, coordinate and encourage the processing by GeoDirectory.

²⁸ “FAQs”, GeoDirectory (URL: <https://www.geodirectory.ie/knowledge-centre/faqs>)

²⁹ “Geocoding insurance for Aviva”, GeoDirectory (URL: <https://www.geodirectory.ie/success-stories/aviva>)

³⁰ “Third Party Agents”, GeoDirectory (URL: <https://www.geodirectory.ie/about-us/third-party-agents>)

³¹ “FAQs”, GeoDirectory (URL: <https://www.geodirectory.ie/knowledge-centre/faqs>)

³² Article 4(7), GDPR

³³ Enclosure 2 - Constitution of An Post GeoDirectory Designated Activity Company

³⁴ In the meaning of Recital 37, GDPR

- c. Third, they provide data to it. According to GeoDirectory:

“The combination of An Post’s intimate knowledge of every building in every village, town and city in the Republic of Ireland with the unmatched technology and geographical expertise of Ordnance Survey Ireland, ensures GeoDirectory has the most powerful and sophisticated address database in Ireland.”³⁵

Correspondence

23. In several rounds of correspondence over a period of six months the controllers have refused to acknowledge that the data held and processed about the data subjects are personal data.
24. On 5 October 2021, we wrote to An Post and GeoDirectory pointing out that GeoDirectory had processed their personal data.³⁶
25. In that letter, we made several requests for information, including:
- a. Subject access requests about the processing of the data subjects’ personal data;
 - b. A copy of the data subjects’ personal data that are subject to processing by automated means, or are the product of that processing; and
 - c. Confirmation as to whether GeoDirectory conducted a Data Protection Impact Assessment (DPIA) and, if so, to provide a copy.
26. On 28 October, we received a reply from the Data Protection Officer at GeoDirectory, informing us that An Post, Ordnance Survey Ireland and GeoDirectory were treating our letter as an access request. Further, GeoDirectory said it did not hold any data relating to the data subjects.³⁷
27. We replied on the same day and told GeoDirectory that the data subjects had purchased the following data about themselves from GeoDirectory on 5 October:
- a. Their home addresses
 - b. Eircodes
 - c. Unique “GeoDirectory Identification”
 - d. GPS coordinates
 - e. Electoral division; and
 - f. Small area code³⁸

In the same letter, we asked GeoDirectory to reconsider its position that these data³⁹ were not personal data.

28. GeoDirectory’s reply dated 9 November,⁴⁰ but emailed on 11 November, said it would review our questions.
29. On the same day, we received a response from OSI to our letters of October 5 and October 28. OSI said:

³⁵ “How GeoDirectory is Updated”, GeoDirectory, 15 March 2022 (URL: <https://www.geodirectory.ie/blog/march-2022/how-geodirectory-is-updated>)

³⁶ Enclosure 3 - Letter from ICCL to An Post and Ordnance Survey Ireland, 5 October 2021

³⁷ Enclosure 4 - Letter from the Data Protection Officer of An Post GeoDirectory DAC to ICCL, 28 October 2021

³⁸ Enclosure 5 - Letter from ICCL to GeoDirectory, An Post and Ordnance Survey Ireland, 28 October 2021

³⁹ Enclosure 6 - Data purchased on 5 October 2021.

⁴⁰ Enclosure 7 - Letter from GeoDirectory to ICCL, 9 November 2021

“An Post GeoDirectory are the entity responsible for the data processed as per your initial request of the 5th as well as your most recent communication of the 28th following the purchase of data as identified in the letter.”⁴¹

30. On 12 November, we replied to OSI and asked the following questions:

- a. Is it OSI’s position that it does not exert a “dominant influence” over An Post GeoDirectory?
- b. Is it OSI’s position that it has not provided GeoDirectory with personal data, including data that when combined with other data is personal data?
- c. Is it Ordnance Survey Ireland’s position that it has not organised, coordinated and encouraged the processing by GeoDirectory?⁴²

31. We did not receive a reply from OSI to these questions.

32. On December 14, GeoDirectory replied to ours of October 28. It repeated that it holds no data relating to the data subjects.⁴³

33. On February 18, 2022, we replied to GeoDirectory,⁴⁴ suggesting again that it reconsider its position that the data at issue are not personal data. We also informed GeoDirectory that the data subjects had purchased additional “GeoPeople” data that GeoDirectory had compiled about them.⁴⁵

34. Receiving no reply, we wrote to GeoDirectory again on March 10, asking it to reconsider its position that the relevant data were not personal data.⁴⁶

35. On March 15, GeoDirectory replied to ours of February 18 and March 10, saying:

“I can confirm that, as outlined in our letters dated 28 October and 14 December, GeoDirectory does not hold any data relating to Dr Johnny Ryan and Olga Cronin and has no personal data to supply to you on foot of your access request and that the data access request is complete.”⁴⁷

36. In six months of correspondence, GeoDirectory did not answer the questions we raised in ours of October 5.

Grounds of complaint

Personal data

37. Article 4(1) of the General Data Protection Regulation (GDPR) states:

“Personal data’ means any information relating to an identified or identifiable natural person (‘data subject’); **an identifiable natural person is one who can be identified, directly or indirectly**, in particular by reference to an identifier such as a name, an identification number, location data, an online identifier or to one or more factors

⁴¹ Enclosure 8 - Letter from Ordnance Survey Ireland to ICCL, 11 November 2021

⁴² Enclosure 9 - Letter from ICCL to Ordnance Survey Ireland, 12 November 2021

⁴³ Enclosure 10 - Letter from GeoDirectory to ICCL, 14 December 2021

⁴⁴ Enclosure 11 - Letter from ICCL to GeoDirectory, 18 February 2022

⁴⁵ Enclosure 12 (i) and (ii) - Data purchased from GeoDirectory on 17 February 2022

⁴⁶ Enclosure 13 - Letter from ICCL to GeoDirectory, 10 March, 2022

⁴⁷ Enclosure 14 - Letter from GeoDirectory to ICCL, 15 March, 2022

specific to the physical, physiological, genetic, mental, economic, cultural or social identity of that natural person”⁴⁸ (*emphasis added*)

38. Indirect identifiability can be achieved through the combination of datasets. The Article 29 Data Protection Working Party opinion notes:

“When considering the available means for identifiability, the development has to be taken into account that people tend to disclose more and more personal location data on the Internet, for example by publishing the location of their house or work in combination with other identifying data. Such disclosure can also happen without their knowledge, when they are being geotagged by other people. This development makes it easier to link a location or behavioural pattern to a specific individual.”⁴⁹

39. Article 4 (2) of the GDPR states:

“‘processing’ means any operation or set of operations which is performed on personal data or on sets of personal data, whether or not by automated means, such as collection, recording, organisation, structuring, storage, adaptation or alteration, retrieval, consultation, use, disclosure by transmission, dissemination or otherwise making available, alignment or combination, restriction, erasure or destruction”⁵⁰

40. GeoDirectory processes the data subjects’ personal data, including:

- a. A social description as either: ‘Affluent’, ‘Advantaged’, ‘Striving’, ‘Struggling’, or ‘Deprived’, based on data points from the Census including income, labour market skills, age, cultural background, and family status.⁵¹
- b. A further description as either: ‘Affluent City Singles, Affluent Suburban Families, Affluent Commuter Belt Families, Advantaged City Singles, Advantaged Suburban Families, Advantaged Rural Families, Striving City Singles, Striving Suburban Singles, Striving Small Town Families, Struggling Older Families Throughout Ireland, Struggling Rural Families, Struggling Young Families in the Countryside, Deprived Rural Families, or Deprived Urban Families.’⁵²
- c. The following details about their homes: building height, number of floors, age of building, square footage of building, sale value of property if a sale occurred in the previous two years and BER rating.⁵³
- d. Unique identification codes that GeoDirectory has assigned to their homes;⁵⁴
- e. The X, Y coordinates of their homes,⁵⁵ a feature that GeoDirectory says accurately locates the centre point of a building to within one metre on the National Grid and acts “like a fingerprint” for a building;⁵⁶
- f. Their homes’ street addresses;⁵⁷

⁴⁸ Article 4 (1), GDPR

⁴⁹ Article 29 Data Protection Working Party Opinion 13/2011 on Geolocation services on smart mobile devices (URL: https://ec.europa.eu/justice/article-29/documentation/opinion-recommendation/files/2011/wp185_en.pdf)

⁵⁰ Article 4 (2), GDPR

⁵¹ “GeoPeople”, GeoDirectory (URL: <https://www.geodirectory.ie/products-services/geopeople>)

⁵² *ibid.*

⁵³ “GeoBuilding Intel”, GeoDirectory (URL: <https://www.geodirectory.ie/products-services/geobuilding-intel>)

⁵⁴ “GeoDirectory website offers Bird’s Eye view of buildings”, GeoDirectory (URL: <https://www.geodirectory.ie/knowledge-centre/media/geodirectory-website-offers-bird%E2%80%99s-eye-view-of-buii>)

⁵⁵ *ibid.*

⁵⁶ *ibid.*

⁵⁷ “GeoAddress”, GeoDirectory (URL: <https://www.geodirectory.ie/products-services/geoaddress-online>)

- g. Their homes' Eircodes;⁵⁸
- h. Their homes' building types;⁵⁹
- i. The year their homes were built;⁶⁰
- j. Whether their homes are occupied, vacant, or are holiday homes;⁶¹
- k. Electoral division of their homes;⁶² and
- l. Small area code of their homes.⁶³

41. The data subjects were able to purchase the following data about themselves from GeoDirectory:

- a. A unique "GeoDirectory Identification" code that GeoDirectory has assigned to their homes;
- b. Their home addresses;
- c. The X,Y co-ordinates of their homes;
- d. Their Eircodes;
- e. Their small area code;
- f. Their Electoral Division;
- g. The type of building they each live in;
- h. The year their homes were each built;
- i. The status of their homes, i.e. "occupied";
- j. GeoPeople data about them, i.e. their social demographic profile.

These are enclosed herewith, as enclosure 15 and enclosures 6, 12 (i) and 12 (ii).

42. In addition, GeoDirectory may process other personal data about the data subjects.

Legal principles

43. Recital 71 of the GDPR refers to profiling as:

"any form of automated processing of personal data evaluating the personal aspects relating to a natural person, in particular to analyse or predict aspects concerning the data subject's performance at work, **economic situation**, health, personal preferences or interests, reliability or behaviour, **location** or movements, where it produces legal effects concerning him or her or similarly significantly affects him or her..." (*emphasis added*)⁶⁴

44. Recital 75 of the GDPR says that profiling people's "economic situation" creates a high risk to them.⁶⁵

45. Previous guidelines from the Data Protection Commission⁶⁶ note that location data are of particular concern:

⁵⁸ *ibid.*

⁵⁹ *ibid.*

⁶⁰ *ibid.*

⁶¹ *ibid.*

⁶² *ibid.*

⁶³ *ibid.*

⁶⁴ Recital 71, GDPR

⁶⁵ Recital 71, GDPR

⁶⁶ "Guidance Note for Data Controllers on Location Data", Data Protection Commission, 2017 (Archived at URL: <https://web.archive.org/web/20171128211436/https://www.dataprotection.ie/docs/Guidance-Note-for-Data-Controllers-on-Location-Data/1587.htm>).

“because of the intimate nature of location data, identification and singling-out of an individual will often be calculable in the absence of such information [name, phone number, email address]. So, even if you never intend to link the location data you are collecting to a particular person, it will likely amount to personal data despite not naming the individual in question.”⁶⁷

Indeed, GeoDirectory’s CEO cited this guidance from the DPC in 2018.⁶⁸

46. To ensure the protection of individuals and their fundamental rights, data controllers are bound by several obligations:

First, a data controller’s recognition and acknowledgement that they process personal data is prerequisite to compliance with the principles⁶⁹ of data protection.

Second, the processing of personal data is prohibited unless the controller has established a legal basis. Further, this must be established for each purpose of data processing.

Third, controllers must be clear and transparent with individuals whose personal data are or will be collected, used, consulted or otherwise processed. Any communication relating to the processing of personal data should be easily accessible.⁷⁰ This enables a data subject to challenge the processing of data that is not GDPR compliant.

Fourth, in keeping with the principle of accountability, data controllers must also ensure that they are complying with the principles of data protection law and be able to demonstrate that compliance.⁷¹

Fifth, all personal data held must be accurate and, where possible, kept up to date;⁷² the personal data processed must be adequate, relevant and limited to what is necessary for the purpose for which personal data is processed;⁷³ processed in a manner that ensures appropriate security of the personal data;⁷⁴ and collected for specified, explicit and legitimate purposes and not further processed in a manner that is incompatible with those purposes.⁷⁵

Application of legal principles to GeoDirectory

47. GeoDirectory anticipates that the data it processes, and sells, will be combined with other data, and that the resulting data “now contains personal information under the General Data Protection Regulation”.⁷⁶ In other words, GeoDirectory acknowledges that its data can indirectly single out individuals.

⁶⁷ *ibid.*

⁶⁸ “GDPR: Trusting the use of your personal location data: GDPR and location data”, presentation by Dara Keogh (GeoDirectory), Interactive Workshop, INSPIRE Conference, Antwerp, 21 September 2018 (URL: https://inspire.cc.europa.eu/sites/default/files/presentations/inspire2018_-_gdpr_trusting_the_use_of_your_personal_location_data_-_1_gdpr_and_location_data.pdf)

⁶⁹ Article 5, GDPR

⁷⁰ Article 13 and Article 14, GDPR

⁷¹ Article 5(2), GDPR

⁷² Article 5(1) (d), GDPR

⁷³ Article 5(1) (c), GDPR

⁷⁴ Article 5(1) (f), GDPR

⁷⁵ Article 5(1) (b), GDPR

⁷⁶ “FAQs”, GeoDirectory (URL: <https://www.geodirectory.ie/knowledge-centre/faqs>)

48. It is likely that GeoDirectory data can directly single out individuals, too. A person's home address is intimately linked to them. Indeed, the "home" is explicitly mentioned in Article 7 of the Charter, which provides the fundamental right to privacy.⁷⁷ The right to privacy is also protected by the Constitution with the Irish courts holding that the right to privacy is one of the unenumerated rights which flow from Article 40.3.1.⁷⁸
49. A person's social and economic characteristics are intimate data. Recital 71 of the GDPR recognises that these data may expose a person to risk.
50. The controllers' refusal to acknowledge that they process the data subjects' personal data is a grave infringement. Their refusal to acknowledge the processing negates the data subjects' fundamental rights to data protection and to privacy.⁷⁹
51. Moreover, GeoDirectory seeks to absolve itself of its controllership responsibilities by means of a clause in the agreement it imposes on purchasers of its data. That agreement claims the following:

"The Licensor shall have no liability to remedy a breach of warranty where such breach arises as a result of... the modification of the GeoDirectory or its merger (in whole or in part) with any software or data."⁸⁰

Two problems arise. First, a controller cannot absolve itself of its responsibilities in this way. Second, the attempt is all the more egregious because the controller explicitly markets its data to prospective buyers as a means to "add even more value to your data",⁸¹ but then in its licence agreement goes through the motions of prohibiting buyers from combining GeoDirectory data with other data.

52. In addition, the controller has infringed the GDPR and Irish Data Protection Act 2018 in further ways.
 - a. The processing of personal data is prohibited unless a controller has a legal basis. This must be established for each purpose of data processing. The controllers claim they process no personal data, and therefore have established no legal basis.
 - b. The controllers have not been transparent about the processing. GeoDirectory's privacy policy on its website⁸² concerns those who purchase their data, not the data subjects. Nor have they answered the data subjects' legitimate questions or properly responded to their access request.
 - c. Contrary to the principle of accountability, the controllers have failed to demonstrate they comply with data protection law.
 - d. The controllers have failed to demonstrate that the data they collect about the data subjects are being collected for specified, explicit and legitimate purposes, and not further processed in a manner that is incompatible with those purposes.

⁷⁷ Article 7 of the Charter of Fundamental Rights of the European Union.

⁷⁸ Article 40.3.1 of the Constitution of Ireland.

⁷⁹ Article 7 and Article 8 of the Charter of Fundamental Rights.

⁸⁰ An Post GeoDirectory - Licence Agreement (End User Licence), par. 5.4.2

⁸¹ "GeoAddress SmartData", GeoDirectory (URL: <https://www.geodirectory.ie/products-services/geoaddress-smartdata>)

⁸²

- e. Nor have the controllers demonstrated that the data are limited to what is necessary, or accurate.
- f. Nor have they demonstrated appropriate security.⁸³ The data subjects were easily able to buy their personal data and can do anything they wish with that data from GeoDirectory. Anyone else could do so, too.

53. We find it particularly inappropriate that Census data, consisting of personal data which residents of Ireland *must* submit to the State by law under threat of prosecution for not doing so,⁸⁴ would be subsequently used by two state bodies, An Post and Ordnance Survey Ireland, to create profiles of those same residents and then sell those data on to corporations which use them to target said residents. It is one thing for non-identifiable statistical data to indicate where a hospital or school is needed, but it is another thing for that data to be used by a data broker to build a person's credit score.

54. We do not know if the controllers carried out Data Protection Impact Assessments. GeoDirectory did not reply to our question. Nor do we know whether the controllers engaged in prior consultation before the processing. The DPC highlights the need for a DPIA for each proposed data processing operation, and for records of processing operations that include risks and reasons why a DPIA was carried out, or not.⁸⁵ The DPC notes this is particularly important where the following apply:

- i) there is large-scale processing for purposes other than that for which it was initially collected pursuant to GDPR Article 6(4);
- ii) large scale profiling, algorithmic processing that results in legal or similarly significant effects;
- iii) GDPR transparency requirements are not met due to exemptions based on impossibility or disproportionate effort, as a result of indirect sourcing;
- iv) there is combining, linking or cross-referencing of separate datasets where such linking significantly contributes to or is used for profiling or behavioural analysis of individuals, particularly where the data sets are combined from different sources where processing was/is carried out for difference purposes or by different controllers; and
- v) large scale processing of personal data where the Data Protection Act 2018 requires "suitable and specific measures" to be taken, in order to safeguard the fundamental rights and freedoms of individuals.⁸⁶

As is clear from the facts set out above, all these conditions apply in the present case.

Wider concerns

55. While this complaint pertains to the data subjects' data, similar data can be purchased about people living in more than 2.2 million Irish addresses.⁸⁷ Enclosed is a small sample (a spreadsheet of 1,425 rows) of GeoDirectory data as evidence of the broad hazard to fundamental rights.⁸⁸ Therefore, the Data Protection Commission is requested to examine this matter in its totality.

⁸³ Article 5(1)(f), GDPR

⁸⁴ Sections 26 and 27 of the Statistics Act 1993 (URL: <https://www.irishstatutebook.ie/eli/1993/act/21/enacted/en/print#sec26>)

⁸⁵ "List of Types of Data Processing Operations which require a Data Protection Impact Assessment", Data Protection Commission, November 2018, (URL: <https://dataprotection.ie/sites/default/files/uploads/2018-11/Data-Protection-Impact-Assessment.pdf>)

⁸⁶ *ibid.*

⁸⁷ "GeoAddress", GeoDirectory (URL: <https://www.geodirectory.ie/products-services/geoaddress>)

⁸⁸ Enclosure 16 - Data purchased for 1,425 homes in Dublin, on 17 February 2022

Request of DPC

56. We request that the DPC investigate the infringements described in paragraphs 50-55, above, and handle the matter as an Article 77 complaint.

Yours sincerely,
Irish Council for Civil Liberties