



# Yours True-ly, Viceroy Research

Truecaller's response intentionally misdirects valid criticism of its platform, operations, compliance & risk profile.

## PLEASE READ IMPORTANT DISCLAIMER – PAGE 11

**October 5, 2022** – On October 3, 2022 – Truecaller released a press statement in response to Viceroy's report, Truecaller's True Colors, on October 3, 2022. As expected, Truecaller's statement fell squarely within the clutches of Catch-22 (the greatest catch there is).

Here at Viceroy, we like to keep one in the barrel in case management decide to persist with nonsense narratives.

- As of latest available filings, Truecaller *is* subject to tax proceedings in Sweden and investigations in India. This is disclosed in Truecaller's own prospectus.
- Truecaller's prospectus highlights every single risk Viceroy have identified as a real risk to its business.
- Management proactively install safeguards to prevent minors from downloading its app, but refuse to acknowledge that most of its phone book, including minors, consists of non-consenting, non-user data.
- Management acknowledge a huge privacy breach while preaching the "privacy focused" nature of its public phone-book.

This report will scrutinize Truecaller's logical gymnastics, mutually exclusive arguments, and healthy dose authoritative bias. Our earlier reports can be found on our website below:

<https://viceroyresearch.org/truecaller-research/>

While drafting its response, Truecaller have been diligently buying back stock, as they must have truly nothing better to spend their money on.

## 1. Truecaller's due diligence

Truecaller' commences its statement by stating that the company has, itself, diligently reviewed our report, conducting "extensive analysis", and concludes that our "allegations of misconduct" are incorrect. It then bizarrely states that the provision of a prospectus somehow absolves it from any wrongdoing.

### Update on recent inquiries from investors and media

As communicated in the [press release](#) on September 28th, Truecaller has diligently reviewed the report mentioned in the press release and conducted an extensive analysis which concludes that the allegations of misconduct are incorrect and false. The opinions presented in the report do not represent Truecaller, its business practices, and what the company stands for. Truecaller is driven by a sense of purpose and a belief in strong values.

Truecaller was listed on Nasdaq Stockholm in 2021, and as such underwent a rigorous process where a prospectus, providing a transparent picture of Truecaller's business, was published. The prospectus was reviewed by several legal and financial advisors, the Listing Committee of Nasdaq Stockholm and the Swedish Financial Supervisory Authority.

Figure 1 – Extract from Truecaller Response

- For simplicity's sake, shareholders should request details of Truecaller's "extensive analysis" which absolves them of any wrongdoing. We will happily retract our report if this is really the case (we doubt it).
- Truecaller claims to be "driven by a sense of purpose and a belief in strong values", a phrase that means nothing and could only have been pulled from a rejected intern's CV or a \$40k McKinsey PR consultation session.
  - Truecaller spends almost nothing on R&D and claims it will compete with OEMs, Apple and Google, Whatsapp and the Indian Government.
  - Truecaller's IPO was substantially an opportunity for founders and VCs to exit.
  - Seemingly unable to do anything with the little cash it raised, it's now buying back stock.



## Prospectus "Risk Factors"

Truecaller's prospectus<sup>1</sup> effectively lists all of Viceroy's largest concerns in its own risk section, including:

- Imposition of tax (including withholding taxes) on its international subsidiaries
- The implementation, enactment, and/or circumvention of data regulation in key geographies
- Uncertainty regarding its of data security, including liabilities and public perception as a result of breaches
- Noncompliance/removal from key partners (iOS and App Store)
- Redundancy in the wake of bigger players and its limited capacity to operate in the over-the-top space (Whatsapp, facebook messenger, etc).

**Truecaller may have exposure to reassessment of taxes**  
The tax laws applicable to Truecaller, and particularly Truecaller's intra-group international business activities, are subject to interpretation. Tax authorities in the jurisdictions in which Truecaller operates may challenge Truecaller's methodologies for valuing developed technology or intra-group transactions and tax the companies on income that, in the opinion of the tax authorities, should have arisen in those countries. This

Figure 2 – Extract from Truecaller Prospectus "Risk Factors"

**Truecaller primarily operates in emerging markets, particularly India, and is exposed to the economic, political and social environment in countries in which Truecaller conducts business and/or it has a substantial numbers of users**

Truecaller's international business and results of operations may be influenced, to a significant degree, by political, economic and social developments in the countries in which Truecaller operates or has a large number of users. Truecaller is subject to the risks inherent in conducting business in multiple countries,

**Truecaller could incur substantial costs as a result of data protection failures**

Truecaller receives, processes, stores, uses and shares data, some of which contains personal information, which subjects Truecaller to complex and evolving governmental regulation and other legal obligations related to data privacy, data protection and other matters. The interpretation and platform of data protection laws are uncertain and evolving. It is possible that these laws may be interpreted and applied in a manner that is inconsistent with Truecaller's data practices.

Figures 3 & 4 - Extract from Truecaller Prospectus "Risk Factors"

**If Truecaller's security systems are breached, it may face civil liability, and public perception of Truecaller's security measures could be diminished, either of which would negatively affect Truecaller's ability to attract and retain users and advertisers**

If unauthorised transactions or other legal violations were to occur, it could damage Truecaller's reputation, especially in relation to business partners, financial counterparties and Truecaller's subscribers, all of whom trust Truecaller to have adequate guidelines and procedures in place for preventing and detecting illegal acts and compliance failures. Truecaller's

Figures 5 & 6 - Extract from Truecaller Prospectus "Risk Factors"

**Truecaller's platform may fail to operate effectively on the Android and iOS mobile operating systems, be banned or suspended from the related app store platforms, or have to compete with native features**

with these devices, operating systems or networks. If operating systems, related store platforms, or device manufacturers adopt and enforce policies that limit or ban Truecaller's ability to distribute or update Truecaller's applications through their stores or it otherwise becomes difficult for Truecaller's users to access and use its app on their mobile devices, its user growth and engagement will be harmed, and its business and operating results could be adversely affected.

Figures 7 & 8 - Extract from Truecaller Prospectus "Risk Factors"

**As the market in which Truecaller participates is still in its early development phase, a number of players could enter segments in which Truecaller operates and Truecaller may not compete effectively**

The market for caller identification and spam messaging services is still in its early development phase, and a number of players could enter segments in which Truecaller operates.

are potential market participants, including Google, Original Equipment Manufacturers (OEM)<sup>2</sup> (e.g., Samsung and makers of Pixel devices), mobile networks, social networks such as Facebook, and OTT services such as WhatsApp, which may be larger and have greater brand name recognition, longer operating histories, and significantly greater financial, technical or marketing resources than Truecaller does. Some of these

Figures 9 & 10 - Extract from Truecaller Prospectus "Risk Factors"

*Truecaller claims to dismiss risks Viceroy outlined based on their "extensive analysis" and their Prospectus, which contains the same risks.*

*We ask Truecaller management to please make available their "extensive analysis" so investors can disregard their superseded Prospectus.*

<sup>1</sup> <https://corporate.truecaller.com/investors/ipo-2021>





## 2. Taxation

Here at Viceroy, we like to keep one in the barrel in case management decide to persist with nonsense narratives. This response to issues we highlighted in Truecaller's tax is comical, and intentionally omits key data.

### Taxation

- Truecaller is not subject to any tax fraud investigation in India.
- Truecaller is using Ernst & Young (EY) as group accountants. S.R. Batliboi & Associates LLP is the auditor of Truecaller International LLP (Truecaller's Indian subsidiary). Batliboi is registered with the Institute of Chartered Accountants of India (ICAI) and is a well-reputed affiliated member firm of EY Global. Truecaller's group financial statements have always received an unqualified audit opinion. Truecaller has always paid all taxes due.
- Truecaller's transfer pricing policy for its intra-group transactions is consistent with the internationally accepted arm's length standard and the company has applied the same for transactions between Sweden and India. The purpose is to ensure that Truecaller pays tax in a way that is correct from the perspective of both the Swedish and the Indian tax authorities. The policy is periodically independently reviewed to ensure that it meets the tax law requirements of both countries.
- In the Indian fiscal year ending March 31, 2021, and Swedish fiscal year ending December 31, 2020, Truecaller paid no corporate tax in India and Sweden, since Truecaller made a loss before taxes in those fiscal years.
- In the Indian fiscal year ending March 31, 2022, and Swedish fiscal year ending December 31, 2021, Truecaller started paying corporate tax in India and Sweden, based on a positive result before taxes, even after adjusting for the carry forward

losses of previous years. Taxes paid in India will increase in the future as revenues in India increase as previously mentioned.

- Truecaller revenue that is channeled through platforms like Apple and Google to the Indian entity is not being subject to GST as it fulfills the conditions for export services in India according to section 2(6) of the Indian GST Act.

*Figures 11 & 12 – Extract from Truecaller Response*

### Tax Investigation(s) – Honeytrap

Truecaller claims it is not subject to any "tax fraud investigation" in India. It appears management is intentionally misdirecting readers by limiting scope of proceedings and investigations to "tax fraud".

**Truecaller is indeed subject to tax proceedings in India, and a Swedish Tax Agency audit in relation to its transfer pricing,** specifically verifying whether pricing was conducted on market terms.

financial position and results of operations. The Swedish Tax Agency is currently conducting a tax audit of the Company's subsidiary True Software Scandinavia AB regarding corporate income tax and employer contributions for mainly 2017-2018, particularly for the purpose of verifying that the company's transfer pricing has been conducted on market conditions. There could be a risk that the tax audit may result in imposition of additional tax or denied deductions, mainly in relation to historical intra-group transactions, cross-border transactions and Truecaller's incentive program. Similarly, Truecaller's Indian subsidiary is subject to tax proceedings in India related to 2017-2018 with total potential exposures of up to SEK 11.4 million.

*Figure 13 – Extract from Truecaller IPO Sep 2021*



We note that while these investigations/proceedings are for historical periods, their determinations will likely significantly impact any future earnings from Truecaller's largest market.

Management have not addressed these risks in subsequent interim & annual reports, nor any other announcements we are aware of. We believe they are ongoing.

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*Can Truecaller confirm or deny whether it is subject to tax proceedings in India?*

*Can Truecaller confirm or deny whether it is subject to a tax investigation in Sweden?*

*How will any adverse rulings impact Truecaller's earnings?*

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## Transfer Pricing Shenanigans

Truecaller claim that it has begun paying taxes in the Indian tax year ending March 2022<sup>2</sup> because the company had finally turned a profit there and that taxes in India would grow "as Revenues in India increase".

This is not correct. Truecaller's taxable revenues in India are not tied to their Indian revenues: they are tied to their Indian costs. This is because Truecaller International LLP's revenues are entirely from Truecaller AB through the cost-plus method.

The cost-plus method is the transfer pricing equivalent of markup pricing: a fixed mark-up rate is added to costs to determine pricing for units. Profits should theoretically be constant, and low margin. We believe this method is completely inappropriate for Truecaller:

- The Cost Plus method is typically prescribed for transfer pricing of undifferentiated units such as manufactured goods.
- The existence of undifferentiated units allows the auditor (and tax office) to verify that the transfer pricing is aligned to market prices (and, therefore, competitive).
- The local taxpayer entity (in this case, Truecaller India) sells only undifferentiated goods. It is **not** assumed to perform critical functions, take on risk, and/or contribute to development of the group (i.e. IP, trade secrets).
- **Truecaller does not receive undifferentiated units from its Indian subsidiary.**
  - It collects substantially all its revenue from Indian business.
  - Most of its employees are based in India, including sales staff and developers.
  - Truecaller servers are hosted in India for its largest market.
  - The function(s) performed by Truecaller International (India) is not replaceable by local competitors
  - There are no deliverable "units" to mark up. Truecaller appear to simply be adding a mark-up to operational cost values.
- **There is no way to verify if individual functions delivered from Truecaller's Indian subsidiary are in line with market prices as they are critical functions to the business and cannot really be outsourced.**

As we have already noted: Truecaller appears to be subject to tax investigations and proceedings in India and Sweden. We believe the problem remains that the Indian subsidiary of Truecaller serves a critical function to the group and is being compensated via a meagre and opaque markup on staff costs to avoid India's higher taxes rates. Per the Catch-22: this opinion appears to be shared by Truecaller when deflecting GDPR compliance:

- GDPR does not apply to non-EU users' data stored outside the EU because
    - Truecaller International LLP, Truecaller's operating entity in India, is the service provider and data controller for non-EU users with data being processed outside of the EU. Indian user data is stored in India and subject to Indian regulations.

*Figure 14 – Extract from Truecaller Response*

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<sup>2</sup> These are due early-mid November 2022.



## Financial Years Confusion

Truecaller suggests the group made a loss in the year ending December 2020 and thus did not pay taxes in its Indian subsidiary.

We reiterate that the Indian tax year ends in March, and in the Indian tax year ending March 2020, Truecaller generated a profit:

Truecaller Earnings Analysis	Q1 2020	Q2 2020	Q3 2020	Q4 2020	Q1 2021
NPBT	(14,547)	(14,547)	34,184	(47,800)	42,796
Accumulated NPBT - Year Ending Q1 2021		(14,547)	19,637	(28,163)	<b>14,633</b>
* Note that Q1 & Q2 2020 are averaged over the 6 months. Viceroy were unable to find quarterly figures for this period.					

Figure 15 – Viceroy Analysis

Our opinion remains, as always, that the transfer pricing for this period does not accurately reflect Truecaller International's contribution to Truecaller's earnings.

## GST Treatment

Our original report briefly mentioned Truecaller's GST obligations. Truecaller paid no GST in India. Truecaller's Indian auditor issued an Emphasis of Matter (EOM) specifically disclosing that Truecaller was seeking some guidance in relation to its GST treatment.

(ii) Further, the management is confident that the services provided by the LLP qualifies as export of services and is in the process of taking necessary steps towards levy of Goods and Service Tax (GST) on reverse charge mechanism on the aforementioned transactions. The LLP will take necessary steps as required by GST laws to regularise this transaction for the past periods.

Figure 16 – Extract from Truecaller International financial statements 2021

Truecaller claim payment to Google & Apple are export services and not subject to GST. They omit that Truecaller also offer direct sales outside of impression auctions. We note the following:

- Truecaller International (India) generates substantially all its revenues from Truecaller Scandinavia

(c) Related party transactions		
The following table provides the total amount of transactions that have been entered into with related parties for the relevant financial year:		
	(Amount in Rs.)	
	March 31, 2021	March 31, 2020
<b>Income from application services</b>		
True Software Scandinavia AB	940,353,373	576,179,992
<b>Income from software development services</b>		
True Software Scandinavia AB	136,536,254	126,363,823
<b>Expense incurred by the LLP on behalf of the related party</b>		
True Software Scandinavia AB	18,852,762	14,475,851
<b>Contribution from Partner (Employee share based payments) (refer note 4 and 20)</b>		
True Software Scandinavia AB	124,396,948	442,710,921

Figure 17 – Extract from Truecaller International financial statements 2021

- Truecaller advertising customers' (i.e. those who purchase ads on Truecaller) terms of service is with Truecaller International (India), not Truecaller AB

This Advertising Program Agreement (the "Agreement") is entered into by True Software Scandinavia AB where ads are to be placed and aimed at users in the EU, EEA and Switzerland ("EU") or True Software Services India LLP (each "True Software") where ads are to be placed and aimed at users outside the EU on the one hand and the entity that accepts these Terms electronically ("Advertiser"). This Agreement governs Advertiser's participation in the Truecaller

Figure 18 – Truecaller Ads Terms & Conditions<sup>3</sup>

- Truecaller has a local Indian sales department presumably dealing in sales, which are sold to Indian customers and billed from Sweden. These ads are inevitably pushed to users back in India.

<sup>3</sup> <https://advertisers.truecaller.com/>





### 3. User consent

Truecaller's self-assessment of how user consent works is woefully inaccurate:

#### User consent

- Truecaller has always been a community-centric service and was founded on the principle that everyone has a right to know who is calling them and is being trusted by more than 320 million users worldwide. It is encouraging that this principle is increasingly being adopted into regulation, as seen in the latest [Indian telecom bill proposal](#).
- A vast majority of unknown incoming calls identified by Truecaller are calls from either: other Truecaller users, verified businesses, sales calls, promotional calls, or potential fraudsters and harassers, meaning consented data or of legitimate purpose, proving our strong network effect in markets like India.
- Truecaller has safeguards in place for restricting minors accessing its service, which also interacts with safeguards employed by app stores.
  1. All Truecaller users must sign up using their mobile number. In many countries, such as in India, a phone number can only be obtained by an adult or with parental consent.
  2. App stores which Truecaller's app can be downloaded from have an age requirement.
  3. In addition, Truecaller has proactively set an age requirement for app store users to be able to find and install the Truecaller app.
  4. Truecaller's privacy policy specifies that it does not direct its services towards minors. All users need to consent to the [privacy policy](#) to gain access to the service.
- Truecaller has always been a reverse number lookup service where the name of a user is obtained if a user already has a specific phone number. This is the core purpose of Truecaller. In addition, Truecaller users can agree to share contact information between each other on a consent basis.
- Truecaller is a community driven service, with "Enhanced Search" as an option for non-EU users to share data on a consent basis. Since GDPR came into force, if ever a user erroneously contributes EU originated data, such data is automatically rejected from the platform before being processed. Recently, changes were made to our website to remove the ability for EU users to try to circumvent the geographic restrictions by manually changing location and see the "Enhanced Search" option, which was found by the report maker. "Enhanced Search" continues to be an option for non-EU users.

Figure 19 – Extract from Truecaller Response Report

At its core: Truecaller refuses to acknowledge that it has a responsibility to non-users, whose data publicly available on their phone-book. It instead relies on a flimsy condition of use in which defers its consent responsibilities onto direct users, asking them to confirm *with every person in their contact book* that they "consent" to their data being processed and publicly shared by Truecaller.

By accepting the Truecaller Privacy Policy and/or using the Services You consent to the collection, use, sharing and processing of personal information as described herein. **If You provide us with personal information about someone else, You confirm that they are aware that You have provided their information and that they consent to our use of their information according to our Privacy Policy.** You may opt-out at any time to prevent further use of the information shared via the Services.

Figure 20 – Truecaller Rest of World Privacy Policy

This not legally constitute consent (unilateral consent is not valid outside of special circumstance). We do not expect this argument to hold up under any regulatory or legal scrutiny. We also do not believe any of Truecaller's own executive team can provide us evidence where they obtained consent of their entire contact book before uploading their details onto Truecaller's platform.



## Attaching to Authority

Truecaller name drops its expected future competitor, the Indian Government to validate their existing privacy and compliance nightmare.

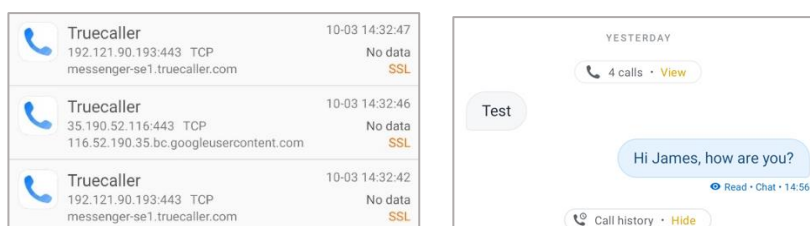
- Truecaller has always been a community-centric service and was founded on the principle that everyone has a right to know who is calling them and is being trusted by more than 320 million users worldwide. It is encouraging that this principle is increasingly being adopted into regulation, as seen in the latest [Indian telecom bill proposal](#).

Figure 21 – Extract from Truecaller Response

Obviously, there are fundamental differences in how these apps will work:

1. The Indian Government is not proposing to create a searchable phone book that allows you to find people's names with their phone number (or vice-versa, through some elementary social hacking which is unfortunately endemic in India).
2. The Indian government's KYC proposal would ensure (at least, to a better degree) that the spam filter data is substantially without error.
3. Truecaller will not be able to push ads to Government filtered spam.

Viceroy's fake user, Mike Rotch, is still active with all Truecaller's "gold" features (which we did not pay for). On the cracked app, we can still log in to Truecaller, communicate with their servers, suggest name changes, and see who has viewed our profile, among other "Gold" functions.



Figures 22 & 23 – Packet Capture and Truecaller Message log dated October 3, 2022

**While the sim card used to create and register the account is now deactivated, the profile was able to use Truecaller's native VOIP and messaging features without issue.** This speaks volumes about how much Truecaller monitors their platform and how easily bad actors can set up accounts with fake names to harass or target potential victims.

TRAI chairman PD Vaghela elaborated that the proposed platform would use the real identity of the caller or message sender, with one year of imprisonment for giving a false identity<sup>4</sup>. Compare this with a platform with apparently zero self-policing and the threat posed by TRAI's alternative is obvious.

The Economic Times of India reported that a high-ranking politician intends to raise the issue of Truecaller in parliament after finding their family's personal and professional contact information on the app.

### True Picture

We have been reporting about activist short-seller [Viceroy's](#) assault on Swedish company [Truecaller](#) that wreaked havoc on the stock last week. A little bird tells us a savvy Indian politician called the author to understand the implications and was aghast to learn first hand the family's private and personal numbers were also available for public consumption, thanks to the app, taken without any consent. Last heard, our neta has vouched to review the matter with fellow parliamentarians.

Figure 24 – Suits and Sayings – Economic Times of India<sup>5</sup>

<sup>4</sup> <https://www.fortuneindia.com/enterprise/trai-to-propose-unified-kyc-to-check-fraudulent-callers/109882>

<sup>5</sup> <https://economictimes.indiatimes.com/magazines/panache/suits-sayings-exotic-locales-allure-india-inc-netas-tryst-with-truecaller-ex-colleagues-breathe-life-into-ailing-firm/articleshow/94608924.cms>



## Consent of minors

Truecaller incorrectly construes that by restricting minors from its service, it is not collecting their data. This is based on app store restrictions, age restrictions around phone number ownership and its privacy policy.

- Truecaller has safeguards in place for restricting minors accessing its service, which also interacts with safeguards employed by app stores.
  1. All Truecaller users must sign up using their mobile number. In many countries, such as in India, a phone number can only be obtained by an adult or with parental consent.
  2. App stores which Truecaller's app can be downloaded from have an age requirement.
  3. In addition, Truecaller has proactively set an age requirement for app store users to be able to find and install the Truecaller app.
  4. Truecaller's privacy policy specifies that it does not direct its services towards minors. All users need to consent to the [privacy policy](#) to gain access to the service.

Figure 25 – Extract from Truecaller Response

Even if we entertain this absurd leap of logic, Truecaller have not identified the elephant in the room:

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*The underlying issue is that minors' personal data is published to Truecaller's public phone book without their consent or knowledge.*

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By collecting people's address books Truecaller is also collecting the data of any minor anyone may have as a contact. Considering most people do not enter date of birth for their contacts, it is likely that Truecaller is processing the data of minors without any safeguards around this.

Put another way, Truecaller probably has no idea whether a non-user identity is a minor, much less whether they or their legal guardian has consented to data processing. This is the core issue of Truecaller's non-user data privacy problems.

## Enhanced Search

The enhanced search feature has been apparently removed from users accessing Truecaller from the EU, however is still active and invading users' contact books outside of the EU. They appear to have corrected this quietly and without acknowledging any responsibility for the issue.

Truecaller seems to claim that EU numbers uploaded via enhanced search are automatically rejected since GDPR came into effect. We referred to this concession being made in our original report and discuss GDPR implications in the following section.





Enhanced Search is still enabled by default on Truecaller's website in non-EU countries, despite the company's claim in March 2022 to the contrary in response to an excellent piece by the Caravan<sup>6</sup>.

Excerpt from the article: "In such cases (of pre-installs), most users have granted access to share the names, numbers, Google IDs, and email addresses of their contacts because a feature called "Enhanced Search" is auto-checked."

Truecaller's response: This is factually incorrect - **Enhanced Search is never auto-checked** and is consent driven irrespective of where the app is downloaded from.

Figures 26 & 27 – Truecaller sign-in page and Truecaller press release dated March 10, 2022<sup>7</sup>

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*Has Truecaller's database has retained pre-GDPR contact data of EU subjects in its phone book*

*Has Truecaller retained enhanced search data of users priors to making corrections to its website?*

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## Reverse Search Facility

Truecaller claim that a name of a user populates if their number is entered on the Truecaller platform. It once again omits that names of non-consenting non-users will also populate if their numbers are entered on the app.

Viceroy have also made it very clear in previous reports that this tool is beloved by scammers and can be used to socially engineer fraud with relative ease.

Our team has also been able to search random names in EU countries which populate phone numbers without requesting consent.

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<sup>6</sup> <https://caravanmagazine.in/technology/truecaller-data-consent-india-privacy-laws>

<sup>7</sup> <https://www.truecaller.com/blog/news/truecaller-statement-3>



## 4. GDPR applicability

Truecaller failed to provide any source for their assertion that they are not subject to GDPR for users outside the EEA.

- GDPR does not apply to non-EU users' data stored outside the EU because
  - Truecaller International LLP, Truecaller's operating entity in India, is the service provider and data controller for non-EU users with data being processed outside of the EU. Indian user data is stored in India and subject to Indian regulations.

Figure 28 – Extract from Truecaller Response

We again include below an extract from the EPDB guidelines on GDPR's territorial scope. Regardless of location of processing, the processing is inextricably linked to the activities of Truecaller AB.

Some analysts have interpreted Articles 3(1) and 3(2) on surface level to mean that Truecaller is only affected by GDPR for its European user base. This is incorrect.

- Recital 22 states that “any processing of personal data **in the context of activities of an establishment of a controller of processor in the union** should be carried out in accordance with this regulation.”. In this case the processing of non-EEA residents' data is being carried **out in the context of services offered by Truecaller AB, as the advertising contract counterparty and parent company of Truecaller International**<sup>8</sup>.
- Recital 14 states that “The protection afforded by this Regulation should apply to natural persons, whatever their nationality or place of residence...”<sup>9</sup>. This speaks for itself.

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*Truecaller refuse to acknowledge that EU & non-EU users use **THE SAME APP**.*

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**The operational, ownership, and financial ties between Truecaller AB and Truecaller International are what makes the company subject to GDPR for their entire customer base.** The EPDB Guidelines document also contains several illustrative examples and clarifications to determine whether GDPR is applicable.

However, geographical location is not important for the purposes of Article 3(1) with regard to the place in which processing is carried out, or with regard to the location of the data subjects in question.

The text of Article 3(1) does not restrict the application of the GDPR to the processing of personal data of individuals who are in the Union. The EDPB therefore considers that **any personal data processing in the context of the activities of an establishment of a controller or processor in the Union would fall under the scope of the GDPR, regardless of the location or the nationality of the data subject whose personal data are being processed**. This approach is supported by Recital 14 of the GDPR which states that “[t]he protection afforded by this Regulation should apply to natural persons, whatever their nationality or place of residence, in relation to the processing of their personal data.”

In determining the territorial scope of the GDPR, geographical location will be important under Article 3(1) with regard to the place of establishment of:

- the controller or processor itself (is it established inside or outside the Union?);
- **any business presence of a non-EU controller or processor (does it have an establishment in the Union?)**

Figure 29 – EPDB Guidelines 3/2018 on the territorial scope of the GDPR<sup>10</sup>

This catch-22 is at the heart of Truecaller's identity flip-flopping: when the taxman comes they're Swedish, when regulators come knocking they're Indian.

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<sup>8</sup> <https://gdpr.eu/Recital-22-Processing-by-an-establishment/>

<sup>9</sup> <https://gdpr.eu/recital-14-not-applicable-to-legal-persons/>

<sup>10</sup> [https://edpb.europa.eu/our-work-tools/our-documents/guidelines/guidelines-32018-territorial-scope-gdpr-article-3-version\\_en](https://edpb.europa.eu/our-work-tools/our-documents/guidelines/guidelines-32018-territorial-scope-gdpr-article-3-version_en)



### **Attention: Whistleblowers**

Viceroy encourage any parties with information pertaining to misconduct within Truecaller, its affiliates, or any other entity to file a report with the appropriate regulatory body.

We also understand first-hand the retaliation whistleblowers sometimes face for championing these issues. Where possible, Viceroy is happy act as intermediaries in providing information to regulators and reporting information in the public interest in order to protect the identities of whistleblowers.

You can contact the Viceroy team via email on [viceroy@viceroyresearch.com](mailto:viceroy@viceroyresearch.com).

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