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## Truecaller Not a Data Controller says the Nigerian Federal High Court



### Introduction

"Truecaller is not a data controller," says the Nigerian Federal High Court. Following a case filed in the court in 2019, Judgement delivered on 19th April 2023, the court stated that the phone owners (users) are the data controllers. Truecaller did not unilaterally collect or harvest the phone numbers of the applicants; rather, it is the data controller who gave consent and access to these phone numbers. Without the action of the data controllers, Truecaller would have no access to the applicants' personal details. The court ruled that Truecaller does not operate as a data controller or harvester of phone numbers. The case was as below:

In 2019, [Olumdei Babalola LP](#) and another filed a [case in the Federal High Court of Nigeria](#) against [True Software Scandinavia AB](#) and another.<sup>1</sup> The applicants sought the court's determination on whether Truecaller's collection, storage, and processing of the personal data of non-users of the app without first obtaining their consent is likely to interfere with their rights to privacy and whether it violated the provisions of Regulation 2.1 and 2.3 of the [Nigeria Data Protection Regulation, 2019](#).

### Applicant's submissions

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<sup>1</sup> Olumide Babalola v Attorney General Of The Federation & Anor. CA/L/42/2016: Another Victory For Public Interest Litigation In Nigeria



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The applicants stated that the respondent uses the app to harvest telephone numbers of users around the world and makes them available to users of their software all over the world without their consent. They believed this exposure has caused and will likely cause interference with their telephone conversations, as they are likely to receive calls from unknown persons who got their numbers from the software. They also argued that the harvesting of phone numbers through the phone contact list of users is an invasion of privacy.

### **Respondent's submissions**

The respondent stated that it doesn't harvest phone contacts of users and non-users of the app, nor does it make them available to the whole world. They stated that the app does not have access to the phone contacts of a user except where the user grants it access as a dialer app. They also mentioned that the versions of the app on Google and Apple Play Store have no option for enhanced search where a person's name can be inputted to produce their phone number.

They further stated that any access to the phone contacts of the user is with the consent of such a user and any contact available on its database is that of a user who gave consent for their details to be displayed by the app. They also denied exposing any person's details to privacy risks. They submitted that the said processing of phone numbers by Truecaller is for users to identify the identity of persons who call them with strange numbers, thus it is for public safety.

### **Court's determination**

The court's opinion was that Truecaller does not unilaterally collect or harvest the phone numbers of the applicants, but it's the data controllers who gave consent and access to these phone numbers. The respondent had argued that upon the consent given by the data controller (the person who downloaded the application), access is given to the application to their phone numbers. The users of the application are the ones who save phone numbers on their contact list and are the data controllers in accordance with the regulation.

The court stated that fault lies with the data controller and not the respondent, who, without the action of the controller, would have no access to these details, and that the app does not operate as a collector of phone numbers. "The application is used to trace the identity or origin of unknown callers. The identity is revealed if contained in the database of the application. This, to my mind, does not amount to infringement of the right to privacy."



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## Case analysis



The case highlights a fundamental aspect of data protection law—the distinction between data controllers and processors.

Some of the key questions asked by [Johnson Agwu](#) on LinkedIn following the judgement, were as follows,

1. How do you propose that consents of those whose phone numbers are saved in TrueCaller Phone Books by the various users of TrueCaller App will be obtained? Do you suggest that:

- a. TrueCaller should send a message to a phone number user seeking consent before it could allow a TrueCaller App user to save the contact on TrueCaller directory? Or
- b. TrueCaller should send a message to the phone number user before it allows identification of the number on the phone of a TrueCaller App user who isn't the original saver of the number?

**Whichever answers are given to the above questions, they raise further issues.** For instance:

- a. Can it be that the person who saved the number unto the TrueCaller App ("Saver") is acting for himself and TrueCaller? Would that mean that TrueCaller & Saver have thus obtained the express or implied consent of the registered holders of telephone lines to be recorded with their TRUE IDENTITY in the phone book service that the Saver uses when they exchange contacts?
- b. Is TrueCaller just another address/phone book provider in the form of email services the same way gmail or some order email clients are, which basically identifies addresses?
- c. Will holding TrueCaller in breach of data privacy for identifying phone addresses as saved by users open a floodgate against all such directory services providers & discourage innovations that encourage transparency and safety?
- d. Except the "inconvenience" of being identified when we call strangers because TrueCaller tells them who we TRULY are, what do we lose with TrueCaller compared to what we gain by knowing the TRUE identity of who is calling us?
- e. Is being called by strangers (including spam services & fraudsters) without screening aids a greater invasion of privacy?



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- f. If the judge had said that the regulations you cited supported your position, will the regulations survive the test of competing rights to privacy versus right to security?

Looking at Johnson's perspective, it would be impossible for Truecaller to send a message to a phone number user seeking consent before allowing a Truecaller App user to save the contact on the Truecaller directory or before allowing identification of the number on the phone of a Truecaller App user who isn't the original saver of the number. This would invade the other party's privacy because they don't have any connection with the service provider.

## Conclusion



The discussion surrounding the Truecaller case raises important considerations regarding privacy, public interest, the right to information, and innovation. The questions and arguments presented highlight the delicate balance between privacy rights and the public interest in transparency and safety. It also underscores the need to ensure that regulations governing data protection do not stifle innovation in services that enhance transparency and security.

The case prompts us to reflect on how we navigate privacy concerns in an increasingly interconnected world, where technologies like Truecaller offer convenience but also raise questions about the extent of personal data exposure. It is possible to conclude that the service Truecaller provides is within the minimum intrusion into our privacy that we must or should all endure to gain greater control of our privacy.

We invite you to share your thoughts and additional sentiments on the Truecaller case and its implications for privacy, public interest, the right to information, and innovation. Your insights can enrich the ongoing dialogue on these important issues. Feel free to join the conversation and contribute your perspective in the comment section.