

Re: Celebrity private photograph leaks

These pictures have been taken on privately owned devices

The spread of images indicates that this isn't a case of the individuals' devices having been hacked – more likely a hacking or unlawful access from a centralised storage source. For this reason, Apple's popular iCloud service is under suspicion as the storage facility that has been unlawfully accessed and from which these images have been obtained. Actress Mary Elizabeth Winstead has said that the private images of herself and her husband which have been released are images that she had deleted from her 'phone, further indication that this unauthorised disclosure has been from a centralised, cloud-based storage facility.

There are only two ways this data could have been accessed:

Unlawful hacking into the various celebrities' Apple accounts (making an assumption that Apple's iCloud is the storage facility that has been accessed) – accessing the account through a stolen or guessed password or a breach of security within Apple – all it takes is one rogue employee.

Apple's security commitments are contained in its privacy policy:

Apple takes the security of your personal information very seriously. Apple online services such as the Apple Online Store and iTunes Store protect your personal information during transit using encryption such as Transport Layer Security (TLS). When your personal data is stored by Apple, we use computer systems with limited access housed in facilities using physical security measures. iCloud data is stored in encrypted form including when we utilize third party storage.

Data uploaded from within the European Economic Area and Switzerland (other than in respect of iTunes) is collected by Apple Distribution International in Cork and transferred for processing (includes storage) to Apple Inc in the US.

Apple commits itself, by what is called the Safe Harbor regime to observe similar standards of data protection to those that apply in Europe.

We are entrusting very sensitive personal data – such as private photographs– to a large scale storage facility storing our data all over the world. The convenience this offers us in terms of storage, back up and synching access to our data across a range of personal digital devices is great when it works. But when it goes wrong – and if the data is unlawfully accessed - the results can be traumatising and scary.

In theory, our privacy laws in Ireland are probably sufficiently robust to permit a claim for damages to be taken or an application for an injunction to be made where photographs that are clearly private and confidential in nature are disseminated online. In practice, enforcing this right to privacy may not be a financially or logistical feasible option.

Andrea Martin, Principal 02 September, 2014 www.medialawyer.ie