

CPC Network
c/o European Commission

and

Ms Marie-Paule Benassi
Head of Unit
DG JUST
European Commission
Rue Montoyer 59

B – 1040 Brussels

Ref.: BEUC-X-2021-013/UPA/DMA/rs

16 February 2021

Subject: BEUC submits an external alert to the CPC-Network about TikTok.

Dear members of the CPC network,

Dear Ms Benassi,

I am writing to you on behalf of BEUC, The European Consumer Organisation, to inform you that today we are launching an external alert to the CPC-Network to report on several unfair contract terms and misleading practices by **the social media platform TikTok**, which according to our analysis, constitute a **widespread infringement with a Union dimension** of several EU consumer laws (the legal grounds for the alert are detailed in the Annex).

This letter is a complement to our external alert submitted according to Article 27 of the Consumer Protection Cooperation Regulation on the Internal Market Information System platform ('IMI platform'), as are BEUC's reports "*TikTok without Filters*" assessing TikTok's practices and policies in the light of Directive 2005/29/EC (the Unfair Commercial Practices Directive), Directive 2011/83/EU (the Consumer Rights Directive), Directive 1993/13/EEC (the Unfair Contract Terms Directive) and Directive 2000/31/EC (the Directive on e-commerce) (**Attachment 1**), the report "*Confusing by Design: A Data Protection Law Analysis of TikTok's Privacy Policy*"¹ providing a detailed analysis of TikTok's privacy policy in the light of Regulation 2016/679 (the General Data Protection Regulation) (**Attachment 2**) and a technical analysis of the behaviour and data flows of TikTok's App² (**Attachment 3**).

TikTok has become one of the most popular social media networks with millions of users across Europe, including thousands of children and teenagers. **Yet BEUC and its members are very concerned about TikTok infringing consumer rights in various ways and not granting the required diligence to its users, especially the youngest ones.**

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¹ Dr. J. Ausloos & Dr. V. Verdoodt, (2021). *Confusing by Design: A Data Protection Law Analysis of TikTok's Privacy Policy*.

² AppCensus (2021), TikTok (Android and iOS) App Analysis Report

In summary, we would like to bring to the attention of the CPC-Network (please see our detailed analysis and conclusions on each of the points below in the reports attached to this letter):

- **Unfair terms in TikTok's "Term of Service"**. Several of these terms are unclear, ambiguous and create an unbalanced relationship between the platform and its users in favour of TikTok;
- **Unfair terms and misleading practices in TikTok's "Virtual Item Policy"**. This includes, among other things, a lack of clear pre-contractual information, several unfair terms, and the absence of an effective authorisation mechanism to prevent abuses with the in-app payment system used for purchasing TikTok's "virtual coins";
- **TikTok's misleading practices for the processing of users' personal data**. TikTok does not clearly inform its users, especially children and teenagers, about what personal data is collected, for what purpose and for what legal reason. These practices are problematic *inter alia* as they do not allow consumers to make a fully informed decision about whether to register to the app and/or to exercise their rights under the GDPR and
- **TikTok's failure to take diligent measures to protect children and teenagers from hidden advertising and potentially harmful content**. We consider that TikTok does not take adequate measures against the proliferation of hidden advertising through marketers on its platform and fails to limit the exposure of children and teenagers to such advertising as well as to inappropriate content.

This alert also builds on previous Common Positions of the CPC-Network, and in particular the Common Position on social networks issued in 2016³ by which the CPC-Network highlighted the lack of fairness and opacity of several practices and terms used by social media platforms. It is noteworthy that several of these terms and practices can be found in TikTok's policies.

While the practices highlighted in this alert are already problematic from the point of view of adult users, they are all the more alarming when considering that the platform's audience is composed to a very significant part of children and teenagers who are particularly vulnerable to unfair commercial practices and whose behaviour may easily be distorted or manipulated. EU consumer protection rules impose a higher fairness standard to protect vulnerable consumers who may be particularly at risk due to, among other things, their age, credulity, or their lack of maturity.

For this reason, we ask the European Commission and the national authorities to launch a comprehensive investigation into TikTok's practices including with a view to the vulnerable group of children and teenagers who are particularly at risk, and to issue a joint position on TikTok's practices ensuring that TikTok respects EU consumer rights.

We also ask the European Commission to inform us about any relevant procedural steps taken with regards to the potential investigation and co-ordination, and if possible, to be regularly informed about the process under confidentiality requirements.

In addition to the present alert, we also sent letters for information to the European Data Protection Board (EDPB) in the context of its ongoing investigations into the company, and to the European Regulators Group for Audiovisual Media Services (ERGA).⁴

³ Common position of national authorities within the CPC-Network concerning the protection of consumers on social networks.

⁴ TikTok also qualifies as a "video-sharing platform" under Directive 2010/13/EU (the Audiovisual media services Directive as amended by Directive 2018/1808).

BEUC member organisations in 17 countries have also alerted their authorities and urged them to take action.

Please do not hesitate to contact us in case of any further questions.

Yours sincerely,

Ursula Pachl
Deputy Director General

Attachments:

- TikTok Without Filters (BEUC, 2021)
- Confusing by Design: A Data Protection Law Analysis of TikTok's Privacy Policy (Dr. J. Ausloos & Dr. V. Verdoodt, 2021)
- TikTok (Android and iOS) App Analysis Report (AppCensus, 2021)

C/c:

- Nils Behrndt, Director, Consumers, DG Justice and Consumers, European Commission
- Mr Olivier Micol, Head of Unit, Data Protection, DG Justice and Consumers, European Commission
- Mr Angelo Grieco, Deputy Head of Unit, Consumer Enforcement and Redress, DG Justice and Consumers, European Commission