

By email

The Consumer Voice in Europe

Ref.: BEUC-X-2021-065/UPA/ABI/rs

12 July 2021

Subject: EU-wide consumer law complaint against WhatsApp - Relevance for the EDPB.

Dear Dr. Jelinek,

Today, BEUC – The European Consumer Organisation and its member organisations launched an **EU consumer law complaint** to the Consumer Protection and Cooperation Network (CPC-Network) against several **aggressive and misleading practices** by the messaging app **WhatsApp**.¹

We have investigated the company's practices and found various infringements of EU consumer laws which we would like to bring to your attention, as we understand that the European Data Protection Board (EDPB) is currently scrutinising whether WhatsApp's recent privacy policy changes and consequential data processing by its parent company Facebook comply with the General Data Protection Regulation (GDPR).

The consumer law infringements we uncovered are outlined in the attached BEUC report "*What's Up with WhatsApp - An assessment of WhatsApp's practices in the light of EU consumer protection rules*". They relate to how, since the beginning of this year, WhatsApp has been sending and continues to send **persistent and intrusive notifications to its users, aggressively pressuring them** to accept its updated Terms of Service and Privacy Policy. The changes in the Terms of Service and Privacy Policy are not transparent, nor comprehensible. It is **impossible for consumers to get a clear understanding of what consequences the changes entail for their personal data and privacy**, particularly in relation to the transfer of their personal data to its parent company Facebook and other third parties.

All of this is aggravated by the fact that WhatsApp's practices have already been found to be in breach of the GDPR by the Hamburg Commissioner for Data Protection and Freedom of Information (HmbBfDI)². WhatsApp currently continues to relentlessly push consumers to accept the updated terms and privacy policy,³ which according to the company entered into effect on 15 May 2021.

We understand that the HmbBfDI's emergency order is pending now for decision by EDPB at European level. **We call on the Board to reach a swift decision on the GDPR compliance of WhatsApp's practices and ensure close collaboration with the CPC-Network on the matters related to our complaint.**

¹ www.beuc.eu/publications/beuc-pr-2021-026_consumer_groups_file_complaint_against_whatsapp.pdf (12 July 2021).

² <https://datenschutz-hamburg.de/assets/pdf/2021-05-11-press-release-facebook.pdf>.

³ See on p.21 *and seq* of our report showing the recurrence of WhatsApp's notifications between the end of May and early July 2021.

We hope that the information we are providing will be of help to the EDPB and that further measures will be taken to ensure that WhatsApp respects the GDPR and the rights of all its EU users.

We remain at your disposal for any further information or clarification that you might require.

Yours sincerely,

Ursula Pachi
Deputy Director General

Attachments:

- BEUC report "*What's up with WhatsApp? –An assessment of WhatsApp' practices in the light of EU consumer protection rules*" (July 2021).
- Letter to the CPC network and the European Commission.