

The Consumer Voice in Europe

Mr. Didier Reynders
Commissioner for Justice
European Commission
Rue de la Loi 200

B – 1049 Brussels

By e-mail

Ref.: BEUC-X-2022-074/MGO/UPA/rs

30 June 2022

Subject: European consumer groups take action against Google for breaches of GDPR.

Dear Commissioner Reynders,

We would like to inform you that today, BEUC and ten of its members have launched a coordinated GDPR enforcement action against Google¹, filing similar complaints with data protection authorities in several countries². The tech giant is unfairly steering consumers towards its surveillance system when they create a Google account, instead of giving them privacy by design and by default as required by the GDPR.

Google is one of the heavyweights of surveillance capitalism. Its business model relies on hoovering up and exploiting consumers' personal data. Its practices affect millions of consumers across the EU. We would therefore consider this to be a case of strategic importance and would expect that cooperation between data protection authorities will be prioritised and supported by the European Data Protection Board, in line with the [statement](#) adopted in Vienna at the end of April.

Millions of Europeans use Google services and many of them have a Google account. A consumer can choose to create a Google account voluntarily or be obliged to create one when they use certain Google products and services. For example, they must create an account when they buy a smartphone that uses Google's Android system, which almost 7 in 10 phones worldwide (69%) depend on³, to be able to download apps from the Google Play Store.

As the red thread which connects how users' data is processed across all Google services, the Google account has important repercussions for consumers' privacy. It also helps set Google's surveillance as the bedrock for the digital market, as many companies depend on Google services for their day-to-day operations.

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¹ <https://www.beuc.eu/publications/european-consumer-groups-take-action-against-google-pushing-users-towards-its/html>

² dTest (Czech Republic), Forbrukerrådet (Norway), EKPIZO and KEPKA (Greece), UFC-Que Choisir (France) and ZPS (Slovenia) have filed GDPR complaints with their data protection authorities. Verbraucherzentrale Bundesverband – vzbv (Germany) has sent a warning letter to Google, a first step before potentially filing a civil lawsuit. Consumentenbond (Netherlands), Forbrugerrådet Tænk (Denmark) and Sveriges Konsumenter (Sweden) have written to their national data protection authorities to alert them about Google's practices. US consumer groups from the Transatlantic Consumer Dialogue (TACD) network are also sending a letter to the Federal Trade Commission (FTC) denouncing Google's practices.

³ Statista.com, '[Mobile operating systems' market share worldwide from January 2012 to January 2022](#)' (accessed 9 June 2022).

Sign-up is the critical point at which Google makes users indicate their 'choices' about how their Google account will operate. A legal analysis⁴ of the sign-up process reveals that it runs against EU data protection law in different ways:

- *No data protection by design and by default:* With only one step, 'Express personalisation', the consumer activates all the account settings ('Web & App Activity', 'YouTube History' and 'Ad Personalization') that allow Google to monitor and exploit everything the consumer does. On the contrary, if a consumer wants to switch anything 'off' to have better privacy protection, this takes 'Manual personalisation': five steps with 10 clicks, grappling with unclear, misleading and incomplete information.

Turning 'off' the account settings to restrict the reach of Google's data processing is a much longer process than turning them 'on'. This is a 'dark pattern' that steers consumers into consenting to very extensive and invasive data collection favouring Google's own interests. Rather than privacy by design, what Google provides is a fast track to surveillance.
- *Opaque and unfair data processing, deceptive design and invalid consent:* Throughout the account sign-up process and regardless of the path chosen by the consumer, 'Express' or 'Manual personalisation', important information particularly about data processing purposes and about the options that the user can choose from is either not presented up front, vague or missing. Google also frames the more privacy friendly options as ones where consumers will miss out on advantages. As a result, consumers cannot take informed decisions when they make their choices. Consent is not valid and Google lacks another valid legal basis for processing personal data.
- *Breaches of purpose limitation, data minimisation and storage limitation principles:* Consumers' data is not collected for specified, explicit and legitimate purposes. Instead, Google relies on oversimplified and vague purposes, and it does not limit the collection and storage of data to the minimum necessary.

BEUC members already complained about some of these issues back in November 2018 in relation to Google's location tracking practices⁵. Over three and a half years later, those complaints are still in the hands of the Irish Data Protection Commission and remain [unresolved](#).

We urge all national DPAs and the EDPB to take appropriate action to ensure that Google complies with the law and that the rights of consumers are respected.

We also urge the Commission to do everything in its powers to ensure the efficient enforcement of the GDPR. In particular, it must ensure that sufficient EU budget is allocated to the EDPS and the EDPB, who will be taking on new, very important and necessary tasks according to the Vienna Declaration, to perform their assignments. The Commission must also not hesitate to initiate infringement procedures against any Member State that fails to fulfil its obligations under EU law.

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⁴ See attached report and GDPR complaint

⁵ See: <https://www.beuc.eu/publications/consumer-groups-across-europe-file-complaints-against-google-breach-gdpr/html>

Please be informed we have sent this letter also to Vice-President Jourová and Executive Vice-President Vestager.

We remain at your disposal for answering any questions you may have.

Yours sincerely,

Monique Goyens
Director General

Ursula Pahl
Deputy Director General

C/c:

- Lucrezia Busa, Member of Cabinet
- Olivier Micol, Head of Unit

Attachments

1. "Fast Track to Surveillance: How Google makes privacy the hard choice" (BEUC, June 2022)
2. GDPR complaint against Google (June 2022, public version)