

Meta Platforms Ireland Limited and Facebook Norway AS
Via email

22.05.2025

To whom it may concern,

Forbrukerrådet (the Norwegian Consumer Council) is a consumer organisation in Norway and part of the BEUC – The European Consumer Organisation's network gathering 45 independent consumer organisations across Europe.

Meta has announced that, as from 27 May 2025, it will use consumer' personal data shared on Meta's products¹ to train its AI model. In practice, this means that any personal data available on users' accounts, such as posts, pictures or comments as well as their interactions with the AI service will be used for this purpose, unless users decide to opt out before 27 May 2025. Instead of asking consumers for their explicit consent, Meta argues that it has a "legitimate interest" (based on Article 6(1)(f) GDPR) in using users' personal data to train its AI system.

With this letter, we would like to express our concerns about these developments. Based on our analysis, we take the view that these practices may be in breach of several EU laws, including EU Regulation 2016/679 (the General Data Protection Regulation - GDPR) and EU Directive 2005/29/EC prohibiting unfair commercial practices (UCPD). Without prejudice to any further elements we or other consumer associations may bring before a court, we would like to raise the following issues:

GDPR

Several consumer and civil society organisations across Europe have already sent cease-and-desist letters, expressed concerns or have taken further steps concerning Meta's alleged "legitimate interest" in using users' personal data to train its AI model. On 12 May 2025, in Germany, *Verbraucherzentrale Nordrhein-Westfalen* filed an injunction seeking preliminary measures before the Higher

¹ Meta states that "we use public information on Meta Products to develop and improve generative AI models for our AI at Meta features and experiences" as well "your interactions with AI features" (see: [AI at Meta | Privacy Center | Manage your privacy on Facebook, Instagram and Messenger | Facebook Privacy](#)). As such, Meta does not make any distinction between the different Meta's products (Instagram, Facebook, WhatsApp, Messenger (www.facebook.com/privacy/policy)).



Regional Court of Cologne requesting Meta to stop its practices.² On 14 May 2025, *noyb*³ sent a cease-and-desist letter to Meta. Other consumer organisations also members of the BEUC network have also shared their legal analysis for Meta to stop its practices.

Among the multiple grounds that constitute a violation of the GDPR, we would like to insist on the following ones (however please note that the list of concerns expressed below is not meant to be exhaustive):

- Meta does not justify that the processing of data subjects' personal data is necessary for the purposes of its legitimate interest and that it overrides data subjects' rights and freedoms enshrined in the GDPR and protected under Art. 8 of the EU Charter of Fundamental Rights. Information explaining what Meta's legitimate interest entails in this context appears limited⁴ and a clear and fully-fledged balancing test is not disclosed. We believe this absence of justification may be a breach of Art. 12 and 13(1)(d) GDPR as it is difficult, if not impossible for consumers to exercise their rights if the elements of the Art. 6(1)(f) analysis are not disclosed. The existence of a legitimate interest overriding the rights of data subjects is in our view highly questionable.
- It seems impossible to rely on Art. 6(1)(f) GDPR, when the use of social media data for AI training would typically violate Art. 5(1)(a) to (f) GDPR and Meta seems to be unable to comply with the rights of consumers under Art. 15 to 19 and 21.
- In case C-252/21 (*Bundeskartellamt*)⁵, the Grand Chamber of the Court of Justice of the EU stressed that Meta cannot rely on Art.6(1)(f) for personalised advertisements, notably because data subjects could not reasonably expect that their data will be used for advertisements. We believe that the same

² www.verbraucherzentrale.nrw/pressemeldungen/digitale-welt/abmahnung-gegen-nutzung-von-daten-fuer-kitraining-durch-meta-106839

³ [noyb sends Meta 'cease and desist' letter over AI training. European Class Action as potential next step](#)

⁴ Apart saying that this will ensure that their “generative AI model [can] be trained on a variety of data so that they can understand the incredible and diverse nuances and complexities that make up European communities” (<https://about.fb.com/news/2025/04/making-ai-work-harder-for-europeans/>)

⁵ ECLI:EU:C:2023:537



reasoning applies here: data subjects who shared their personal data with Meta's service(s) earlier could not have had reasonable expectations that their data would be used for AI training.

- Meta limits users' rights to object by imposing the date of 27 May as a deadline. Yet Art. 21 GDPR clearly states that data subjects shall have a right to object *at any time* to processing of their personal data when this is based on Art. 6(1)(f). Meta is therefore not entitled to limit the right to object in time.
- In Case C-131/12 (*Google Spain*)⁶, the Grand Chamber of the Court of Justice of the EU further stressed that controllers' commercial interests cannot be used to scrape data from the internet even if this scrapping is only used for indexing public websites.
- Meta limits the possibility to opt out only to data subjects who have live Facebook accounts (see below). Data subjects without accounts or whose data is not linked to an account (this can be the case - for instance - of multiple persons appearing on a picture of a users' account, or picture of children appearing on another person's account) do not seem to be captured by the opt out. Those persons do not have the possibility not to have their data used by Meta to train its AI model.

Please log in

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Send

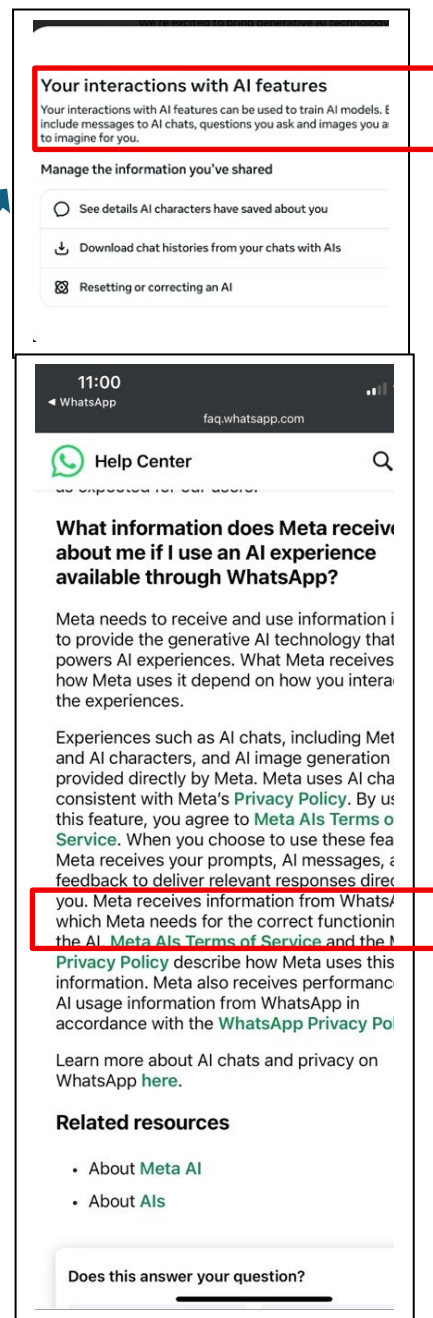
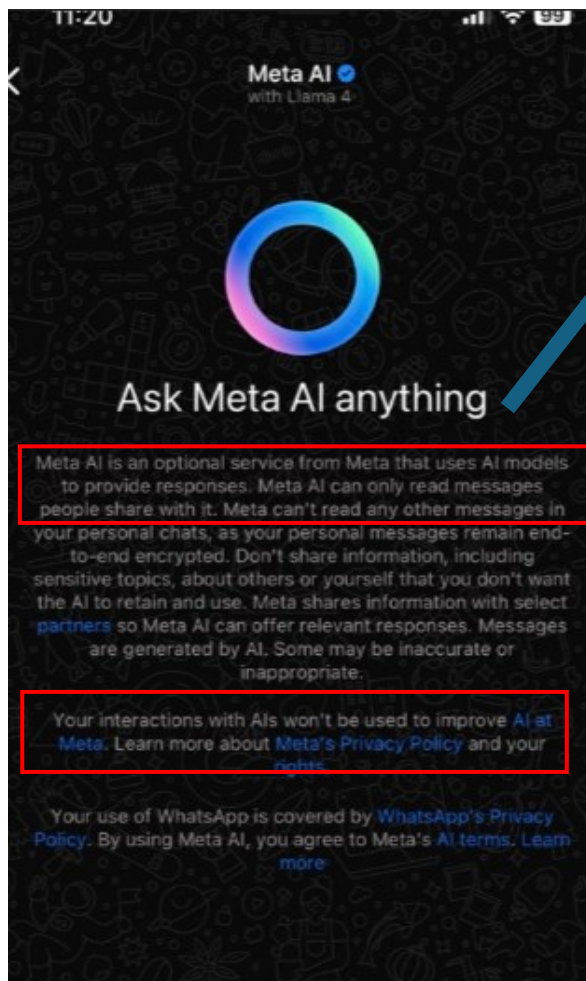
⁶ ECLI:EU:C:2014:317



UCPD

Independent of whether Art. 6(1)(f) GDPR is a suitable basis for processing, we are concerned that Meta's approach may be in breach of Art. 6 of the UCPD as the information provided to consumers may contain misleading information in many aspects.

- As indicated earlier, Meta does not provide clear public information on its balancing test as well as sufficient justifications showing that its commercial interests override users' rights in this context.
- With regards to WhatsApp's users, they have received a notification with more information about Meta AI indicating (inter alia) that Meta AI is an "optional service", and that users' interactions with the AI service will not be used to train Meta AI. However, despite being presented as "optional", Meta AI remains in practice very difficult to deactivate and to remove from the service. Furthermore, when clicking on the link to Meta's T&C at the bottom of the page, it is indicated that "your interactions can be used to train AI". The information seems therefore contradictory and at least is not intelligible and sufficiently clear for average consumers as WhatsApp users actually do share information when they interact with Meta AI embedded into WhatsApp.



DMA⁷

Under the Digital Markets Act Article 5(2)b) and c), Meta is obliged to seek **consent** from end users when combining their personal data from designated

⁷ We note that while the DMA is not yet applicable in Norway, we choose to include this as it may be relevant for Norwegian consumers situated in other jurisdictions.



core platform services such as Facebook and Instagram, with any other service provided by Meta, or cross using this personal data across Meta services.

We strongly suspect that Meta **falls foul of this obligation**.

First, Meta relies on the GDPR concept of “legitimate interest” as its legal basis for the cross-use and combination of personal data from its core platform services with Meta AI instead of seeking the **consent** of the user to use their data in this way as required by the Digital Markets Act.

Secondly, Meta informs users that they can object to the use of their data for Meta AI, but contrary to the requirements of the Digital Markets Act, on an opt-out basis and which is far more complex to exercise, with various and unclear steps, than accepting the use of their data, which requires no affirmative action. This opt-out does not appear to comply with the consent requirements in Article 4, point (11), and Article 7 of the GDPR, nor with the requirements of Recitals 36 and 37 of the Digital Markets Act.

We hope that Meta will give full consideration to (inter alia) the points expressed above and more broadly ensures full compliance with all the requirements laid down in GDPR and UCPD. We keep the right to launch an enforcement action (either before court or before the relevant authorities) to ensure that Meta complies with its obligations and fully respect the rights of consumers.

Yours sincerely

Forbrukerrådet

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