

Workshop on Social Media

DPOs meeting 14 June 2022

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Are you in or
are you out?

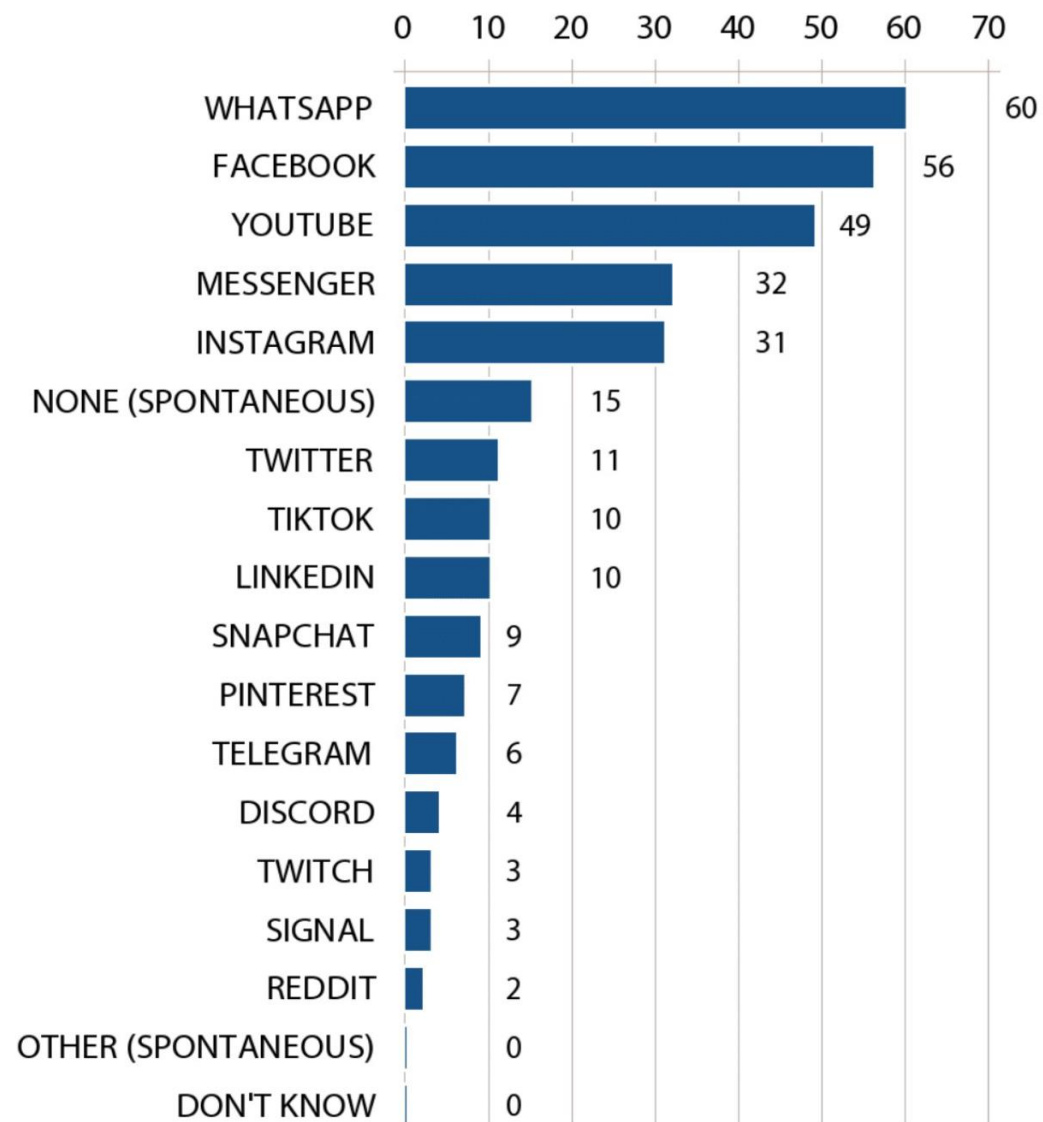
- Social media changed the world!

Eurobarometer 2021 on social media

- WhatsApp is the European's most used social network. It surpassed Facebook for the first time!
- Messenger surpassed Instagram for the first time.

Data from EP Spring 2021 Use of social media (Mar – Apr 2021)

QA13 Which online social network(s) have you used in the last 7 days for any purpose? (MULTIPLE ANSWERS POSSIBLE)
(% - EU27)



Issues raised by Data Protection Authorities and the courts

- The role of the social media platform provider (separate controller, processor or joint controller with the page/account/service user)
- How the individual user is informed about the processing of personal data by the provider and other entities (e.g. provider's business partners)
- Has the individual user given his/her consent to the specific processing operations
- Pervasive Tracking and Profiling
- Reuse and Sharing of Data
- Data Security
- Transfers of Data outside the EU/EEA



Useful guidelines

- [Article 29 Working Party Opinion 5/2009 on online social networking](#) (2009)
- [EDPB Guidelines 2/2019 on the processing of personal data under Article 6\(1\)\(b\) GDPR in the context of the provision of online services to data subjects](#) (2019)
- [Guidelines 08/2020 on the targeting of social media users](#) (2020)
- [Guidelines 3/2022 on Dark patterns in social media platform interfaces: How to recognise and avoid them](#) (2022)
- EDPB Guidelines on use of social media by public bodies (ongoing)



Keypoints

- Personal data made public in social media does not mean it can be reused for all purposes
- Changing the practices and privacy policies of social media platforms takes a concerted effort
- Digital Services Act (DSA), Digital Markets Act (DMA), Digital Governance Act (DGA)



Ready for action?

- What is the role of EUIs?
- What can you as a DPO do?



Case study instructions

- 30 min: discussion of the case study in groups of 10/12 persons
- Each group will have a rapporteur who will take notes and report at the end
- 30 min: reporting the conclusions of each group to the plenary (rapporteurs will present on behalf of their groups)
- live recording/illustration of the conclusions



No rush!

- 10 more minutes!



Time to wrap-up!

5 more minutes!



Q1

- [Wirtschaftsakademie](#) & [Fashion ID](#) judgements of the CJEU (closed) ➤ [FB Controller Addendum](#) examination by competent DPA(s) is ongoing, however [DE DPAs already took the position that Facebook fan pages cannot be operated in compliance with GDPR](#). The decision will be relevant also for similar services offered by other providers.
- [German Federal DPA sends a hearing letter to the Federal Press Office \(BPA\) on the use of a Facebook fan page](#) ➤ The German Federal DPA does **not** currently consider it **possible to operate fan pages in compliance** with data protection regulations.
- [German authorities issue short report on the data protection conformity of the operation of Facebook fan pages](#)

Q2

- legal base

Rec 22+24 + Art. 5 EUDPR

- [Consultation on EASO's social media monitoring reports](#)
- [Priorcheck Opinion on "Data Processing for Social Media Monitoring" at the European Central Bank](#)

Q3

- Necessity, proportionality, categories of data subjects, purposes and types of data
- [Norwegian Data Protection Authority chooses **not to use Facebook**](#)
- [Belgian DPA imposes a fine for bulk processing of Twitter data for political profiling purposes](#)

Q4

- [Norwegian Consumer Council's report by Deceived by design](#) (closed)
- [UK DPA's Facebook/Cambridge Analytica case](#)
- [Irish DPA launches inquiry into Facebook in relation to a collated dataset of Facebook user personal data made available on the internet + statement](#)
- [Irish DPA fines Meta Platforms \(formerly Facebook\) €17M for data breaches](#)
- [Several investigations by Irish DPA concerning Twitter](#) (ongoing) ➤ respect of individual's rights, data security and data breach notification – Irish DPA is in particular examining whether Twitter has discharged its GDPR obligations to implement organisational and technical measures to secure and safeguard the personal data of its users (see p. 45 of IE DPA Annual Report 2020).
- [Irish DPA Decision in the matter of Twitter International Company](#) ➤ final decision by Irish DPA issued following [EDPB Binding Decision 01/2020 on the dispute arisen on the draft decision of the Irish Supervisory Authority regarding Twitter International Company under Article 65\(1\)\(a\) GDPR](#)
- [Belgian DPA v Facebook case \(pending before BE courts\)](#) ➤ Belgian DPA found **non-compliant tracking of users and non-users and invalid consent** and issued a **ban on FB tracking of users and non-users in Belgium**
- [USA](#): social media platform Twitter agreed to pay \$150 million in fines after the U.S. government had sued the company, alleging that it misled consumers about how it protects their personal data.

Q5

- Business model, transfers
- [EDPB taskforce to deal with 101 NOYB complaints on use of Google/Facebook services transferring data to the US](#) is examining these complaints and will decide on the issue of joint controllership and transfers to the US in use of Google Analytics and Facebook Connect services. The decisions will also be relevant for similar services being offered by other providers. Some DPAs have already taken specific positions on transfers in certain online services (e.g. [Bavarian DPAs – FAQ – "Internet"](#)).
- [Austrian DPA issued its decision in NOYB complaint concerning Google Analytics](#)
- [French DPA's decisions in NOYB complaints concerning Google Analytics](#)
- [Irish DPA launches two inquiries into TikTok concerning compliance with GDPR requirements relating to the processing of childrens' personal data and transfers of data to China](#)
- [Irish DPA's Schrems complaint](#) and [inquiry against Facebook](#) on EU-US data transfers (ongoing) ➤ following the [judgment of the Irish High Court in Facebook v DPC](#) the cases of Irish DPA are ongoing and will decide if FB can lawfully transfer personal data to the US – the **preliminary view of the Irish DPA** in its preliminary draft decision is that the data transfers at issue are made in circumstances which **fail to guarantee an essentially equivalent level of protection**, and that **FB is infringing Article 46(1) GDPR** with those transfers, and that the Irish DPA is, therefore, considering proposing **suspension of the transfers** (see para. 52 of the judgment of the Irish High Court).

Q6 & Q7

- [EDPB Urgent Binding Decision 01/2021 on the request under Article 66\(2\) GDPR from the Hamburg \(German\) Supervisory Authority for ordering the adoption of final measures regarding Facebook Ireland Limited](#) ➤ the case at origin of request to the EDPB was [Hamburg DPA urgency procedure against Facebook](#) – aim of issuing an immediately enforceable order not to collect and process data from Whatsapp users for its own purposes.
- [Norwegian DPA: Intent to issue € 2,5 million fine to Disqus Inc.](#)
- [Norwegian DPA imposes fine against Grindr LLC](#)
- [Belgian DPA v Facebook case \(pending before BE courts\)](#) ➤ Belgian DPA found **non-compliant tracking of users and non-users and invalid consent** and issued a **ban on FB tracking of users and non-users in Belgium**; decision of the Belgian court will have substantial impact on how FB carries out its processing in BE but also throughout the EU/EEA
- [CJEU case C-252/21 - Meta Platforms and Others \(Conditions générales d'utilisation d'un réseau social\)](#) (ongoing) – main questions for the CJEU revolve around what is the ground for lawful processing by Facebook - Can FB rely on Article 6(1)(b)
- [CJEU case C-446/21 – Schrems](#) (ongoing)

Q8

- [Wirtschaftsakademie](#) & [Fashion ID](#) judgments of the CJEU (closed)

Q9

- EDPB taskforce to deal with 101 NOYB complaints on use of Google/Facebook services transferring data to the US is examining these complaints and will decide on the issue of joint controllership and transfers to the US in use of Google Analytics and Facebook Connect services.
- Wirtschaftsakademie (C-210/16) & Fashion ID (C-40/17) judgements of the CJEU (closed) ➤ FB Controller Addendum examination by competent DPA(s) is ongoing, however DE DPAs already took the position that Facebook fan pages cannot be operated in compliance with GDPR. The decision of competent DPA(s) will be relevant also for similar services offered by other providers.

Q10

- [Article 29 Working Party Opinion 5/2009 on online social networking \(2009\)](#)
- [EDPB Guidelines 2/2019 on the processing of personal data under Article 6\(1\)\(b\) GDPR in the context of the provision of online services to data subjects \(2019\)](#)
- [Irish DPA Decision in the matter of WhatsApp Ireland](#) ➤ final decision by Irish DPA issued following [EDPB Binding decision 1/2021 on the dispute arisen on the draft decision of the Irish Supervisory Authority regarding WhatsApp Ireland under Article 65\(1\)\(a\) GDPR](#)
- [Dutch DPA: TikTok fined for violating children's privacy](#)

Q11

- [EDPB Urgent Binding Decision 01/2021 on the request under Article 66\(2\) GDPR from the Hamburg \(German\) Supervisory Authority for ordering the adoption of final measures regarding Facebook Ireland Limited](#) ➤ the case at origin of request to the EDPB was [Hamburg DPA urgency procedure against Facebook](#)
- [Irish DPA Decision in the matter of WhatsApp Ireland](#) ➤ final decision by Irish DPA issued following [EDPB Binding decision 1/2021 on the dispute arisen on the draft decision of the Irish Supervisory Authority regarding WhatsApp Ireland under Article 65\(1\)\(a\) GDPR](#)

Q12

- consent, data minimisation, risks to the minors, right of erasure
- [Dutch DPA: TikTok fined for violating children's privacy](#)
- [Italian DPA imposes limitation on processing on TikTok after the death of a Girl from Palermo](#) ➤ competent DPAs are continuing their follow up into the matter of TikTok's processing of children's personal data
- [Children and Social Networks: Italian DPA Requests Information on Processing from Facebook and Instagram](#) (ongoing) ➤ competent DPAs are continuing their follow up into the matter of TikTok's processing of children's personal data
- [French DPA opens an inquiry into the application Clubhouse](#) (ongoing)
- [Irish DPA launches two inquiries into TikTok concerning compliance with GDPR requirements relating to the processing of childrens' personal data and transfers of data to China](#)
- [Irish DPA submits Article 60 GDPR draft decision on inquiry into Instagram](#), proposing a [fine for certain processing of children's personal data](#) (ongoing)

Thank you!

