

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

By email

[REDACTED]

Brussels, January 2025

Re: Concerns about Meta's amended *pay-or-consent* subscription model and lack of compliance with the UCPD, GDPR and DMA.

Dear [REDACTED]

Since November 2023, Meta has imposed a so-called *pay-or-consent* subscription model on Instagram and Facebook where users are requested to give consent to some of Meta's data processing unless they opt into a paid subscription.

BEUC and its member organisations have raised serious concerns about Meta's compliance with EU rules. In November 2023, we submitted an alert to the European Commission and the European Network of national consumer Authorities (CPC-Network) as we suspected several widespread infringements with an EU dimension of the EU Unfair Commercial Practices Directive (UCPD) and Unfair Contract Terms Directive (UCTD).¹ In February 2024, BEUC coordinated with eight consumer organisations to launch coordinated complaints before their national data protection authorities denouncing Meta's illegal processing of users' personal data under the General Data Protection Regulation (GDPR).² In May 2024, BEUC made a submission to the Commission as we believe that Meta fails to comply with its obligations as a gatekeeper under Article 5(2) of the Digital Markets Act (DMA).³

In November 2024, Meta announced several changes to its *pay-or-consent* subscription model.⁴ After a careful assessment, we take the view that these changes remain insufficient. Meta still does not comply with EU law and continues to infringe users' rights.

¹www.beuc.eu/choose-to-Lose-with-Meta (BEUC members participating in this action are: Асоциация Активни потребители (Bulgaria), dTest (Czech Republic), Forbrugerrådet Tænk (Denmark), UFC-Que Choisir (France), EKPIZO & KEPKA (Greece), Adiconsum (Italy), Latvijas Patērētāju interešu aizstāvības asociācija (Latvia), Vartotojų aljansas (Lithuania), Consumentenbond (Netherlands), Forbrukerrådet (Norway), Federacja Konsumentów & Fundacja Konsumentów (Poland), Spoločnosť ochrany spotrebiteľov (S.O.S.) Poprad (Slovakia), ZPS (Slovenia), Asufin & CECU (Spain), Sveriges Konsumenter (Sweden), Union Luxembourgeoise des Consommateurs (Luxembourg) .

² www.beuc.eu/enforcement/meta-smokescreen (BEUC members participating in this action are dTest (Czech Republic), Forbrugerrådet Tænk (Denmark), EKPIZO (Greece), UFC-Que Choisir (France), Forbrukerrådet (Norway), Spoločnosť ochrany spotrebiteľov (S.O.S.) Poprad (Slovakia), Zveza Potrošnikov Slovenije – ZPS (Slovenia) and CECU (Spain). Consumentenbond (Netherlands) sent a letter to the Dutch data protection authority.

³www.beuc.eu/position-papers/implementation-meta-apple-google-amazon-bytedance-and-microsoft-their-obligations

⁴<https://about.fb.com/news/2024/11/facebook-and-instagram-to-offer-subscription-for-no-ads-in-europe/>

In particular:

- *From a consumer law perspective*, Meta has not addressed the multiple issues raised in July 2024 by the European Commission and CPC-Network under the coordination of the French CPC Authority (DGCCRF).⁵
- *From a data protection perspective*, Meta continues to propose a subscription model that is at odds with core GDPR principles, including the principles of lawfulness, fairness, data minimisation and purpose limitation.
- *From a DMA perspective*, Meta does not comply with the DMA's requirement that it should enable users to freely choose whether to consent to personal data processing and offer to users who do not wish to consent to the use of their personal data a "less personalised but equivalent alternative". This "less personalised alternative" should not be different or of a degraded quality compared to the service provided to users who provide consent.

Based on the research conducted and attached to this letter, we call on:

- The CPC-Network and the European Commission to take further action as Meta has failed to make the necessary changes in due time and still conveys misleading and ambiguous information to consumers.
- The Irish Data Protection Commission (acting as the lead data protection authority) together with the other authorities under the European Data Protection Board (EDPB) to further investigate Meta's compliance with the GDPR and to take swift and effective corrective measures.
- The European Commission to ensure that Meta fully complies with its obligations under Art. 5(2) DMA to protect the rights of consumers and ensure that the DMA's objectives of contestability and fairness are attained.

Effective and rights-protective enforcement requires cross-cutting dialogue and close cooperation between authorities and enforcement networks. Therefore, we urge the CPC-Network, the EDPB and the European Commission enforcing the DMA to work closely together to ensure consistency and complementarity between their approaches and subsequent decisions. For this reason, we sent the same letter to the EPDB Chair N [REDACTED] and the EDPB Secretariat.

We remain at your disposal for any additional information you could need and to respond to any questions you could have.

Yours sincerely,

[REDACTED]

Director General

Annex: An assessment of Meta's amended pay-or-consent subscription model from the perspectives of the UCPD, GDPR and DMA

⁵ https://ec.europa.eu/commission/presscorner/detail/ov/ip_24_3862