

Case #6. WhatsApp Data-Sharing Plan with Facebook

EU looking at privacy issues surrounding WhatsApp plan to share user information

By

Sam Schechner and Yoree Koh Aug. 29, 2016 [Wall Street Journal](#)

European privacy regulators are investigating messaging service WhatsApp's plan to share user information including phone numbers with its parent, Facebook Inc., adding to pressure on both sides of the Atlantic over the social media firm's privacy practices.

A European Union body representing the bloc's 28 national data-protection authorities said Monday that its members were following "with great vigilance" changes to WhatsApp's privacy policy last week. The new policy disclosed the plan to share data with Facebook, while giving only existing WhatsApp users the ability to opt out of part of the data-sharing, setting off complaints from privacy activists in the U.S. and Europe.

"What's at stake is individual control of one's data when they are combined by internet giants," the group, called the Article 29 Working Party, said in an emailed statement.

Britain's privacy regulator last week that it was also planning to look into the issue, saying that some users "may be concerned by the lack of control."

Consumer privacy advocates Electronic Privacy Information Center and the **Center for Digital Democracy** in the U.S. on Monday filed a complaint with the **U.S. Federal Trade Commission**, alleging that the change represents an about-face on WhatsApp's previous promise to consumers that "nothing would change" when the social network acquired the messaging startup in 2014.

The **Electronic Privacy Information Center** and the **Center for Digital Democracy** complaint filed with the FTC charges that the proposed changes to use WhatsApp user data for "marketing practices" constitutes "unfair and deceptive trade practices."

WhatsApp said it "complies with applicable laws," adding that "we look forward to answering any questions regulators or other stakeholders have about this update."

The pushback from **European regulators** opens a new front in Facebook's privacy battles. **Germany's Federal Cartel Office** earlier this year said it is investigating whether Facebook Inc. abuses its dominance as a social network to harvest personal information. France's privacy watchdog has threatened to fine Facebook Inc. if it doesn't change how it handles data about its users.

Facebook has said it complies with European privacy laws and has won appeals of privacy cases against it in Belgium and Brussels in recent months as well.

Last week's change in WhatsApp's privacy policy struck a chord because the service has long touted its privacy credentials.

Under the new WhatsApp privacy policy, existing users have 30 days to agree to the new sharing, but can as part of that process opt out of letting Facebook use the data for marketing purposes. The complaint alleges that that requirement goes against a 2012 FTC consent order that demands the company use an "opt-in" process when changing its privacy policy.

WhatsApp disputed the characterization, saying that it both asks for content from all users, and offers "industry leading choice to existing users over how their data is used."

Questions:

- 1. What property rights conflicts are raised in this case:**

Show conflicts in this form:

_____ right to _____

versus

_____ right to _____

- 2. Referring where appropriate to the rights issues, what WhatsApp's responsibility to its users?**
- 3. If you were WhatsApp, what would be your response to Electronic Privacy Information Center and the Center for Digital Democracy complaint filed with the FTC charges that the proposed changes to use WhatsApp user data for "marketing practices" constitutes "unfair and deceptive trade practices."**
- 4. Would there be a benefit to WhatsApp of trying to sit down with Electronic Privacy Information Center and the Center for Digital Democracy to develop a policy both the NGOs and WhatsApp could agree on, or is the adversarial nature of their relationship inevitable?**

Maximum length 300 words

