PRIVACY RULES

EU DPAS POSITION ON META'S STATEMENT

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PRIVACY VS PROGRESS: META AND EUROPE CLASH OVER AI DEVELOPMENT

Meta's intention to launch its AI assistant in Europe has been temporarily postponed due to a discrepancy in opinion with data privacy regulators. The Irish Data Protection Commission (DPC) has expressed reservations regarding Meta's use of publicly accessible content from Facebook and Instagram profiles for the training of its large language models.

Meta expressed disappointment with the request, stating that they have been transparent with regulators since March and have implemented opt-out options for European users in order to comply with data privacy laws. It is argued that user data is an essential element in the creation of a competitively robust AI product, with the absence thereof resulting in a markedly inferior user experience. Furthermore, Meta notes that other companies including Google and OpenAI have already utilised European data for AI development.

Nevertheless, the European regulators, have welcomed the postponement. They see it as an opportunity for further review of Meta's data practices, particularly in relation to user privacy. This outcome represents a victory for the advocacy group NOYB, whose complaints against Meta's data collection methods have gained significant traction.

The potential consequences of this issue can be summarised as follows:

1. **Stalled Launch:** The rollout of Meta's AI assistant in Europe has been temporarily suspended. This represents a significant obstacle to Meta's ambitions to extend its AI services on a global scale.

2. **Stricter Data Privacy Regulations:** It is possible that the DPC's intervention and subsequent will result in the introduction of stricter data privacy regulations across Europe. This could establish a precedent for how companies handle user data when training AI models, with the potential to impact other tech giants as well.

3. **Increased Scrutiny of AI Development:** This situation could result in increased scrutiny of AI development practices in general. Regulators might advocate for enhanced transparency and accountability in how companies collect, use, and store user data for training AI models.

4. **Meta's Adaptation:** Meta might be compelled to adapt its approach to AI development in Europe. This could entail: Focus on anonymized or synthetic data, opt-in data collection

Apart from the Irish DPC, has any other EU DPA taken a similar position on META?

Denmark

A [statement](#) released by the Danish Data Protection Authority (DK Datatilsynet) has revealed that the commencement of artificial intelligence training by Meta has been postponed at the request of the Irish Data Protection Commission (DPC).

The Datatilsynet explained that the DPC is the lead supervisory authority for this case, and that will continue discussions with Meta while involving other European DPAs.

In the past, the Datatilsynet has made guidance for public authorities' use of AI – which can be [found here](#). The guidance mentions re. training on AI that:
1. legal basis is needed,
2. Prior notification is required (in particular when reusing already collected data and prior to reusing them)

France

Apart from its AI-specific recommendations published [here](#) on June 7, 2024, the CNIL has made no comment on Meta's recent AI statements.

Also, the CNIL was recently very much involved in protecting voters' data during the run-up to the anticipated legislative elections in France. This might be the reason why France does not have something at this stage, but might be again active very soon.

Germany

The German Data Protection Conference ("DSK – Datenschutzkonferenz"), the collective body of all 17 data protection authorities ("DPA's") in Germany, published a guidance on GenAI and data protection on 6 May 2024 available online in German language [here](#).

A specific [press release](#) from 12 June 2024 on the legitimacy of AI training with personal data on Instagram and Facebook has been published by the Hamburg Data Protection Authority and is in line with the critical view of the Irish DPC.

At stage, there are no other laws involved.

Apart from the Irish DPC, has any other EU DPA taken a similar position on META?

Hungary

The Hungarian DPA recently published a short press release on the topic in Hungarian (available here).

The Hungarian DPA stated that although users would have the possibility to opt-out from the use of data for AI training purposes, still the European implementation of this opt-out mechanism raised concerns by several EU data protection authorities including the Hungarian DPA. These concerns were shared with the Irish DPC in the consultation process.

Finally, no other laws have been involved.

Italy

The Italian Data Protection Authority has published a guidance document aimed at preventing the indiscriminate collection of personal data for the purpose of training artificial intelligence models (GAI models).

The guideline represents the culmination of a series of investigations conducted by the DPA into the lawfulness of web scraping of personal data performed on the basis of legitimate interest. While waiting the authority's decision, the guidance document delineates recommended measures to ensure the security of personal data and impede web scraping activities.

It should be noted that these measures are not mandatory. It thus falls upon data controllers to assess, in accordance with the principle of accountability, whether they should implement the aforementioned measures.

Norway

Like a hawk eyeing a mouse, the Norwegian DPA has followed everything Meta for some time, including their generative AI model (or de facto chatbot). The DPA issued a press release on 4 June stating that (roughly translated) "It doubts that Meta's use of posts and pictures on Facebook and Instagram to train its AI model will be found legal under Norwegian privacy law" and that, in its view, "it would be appropriate to ask the users for their consent before their posts and images are used in this way, rather than relying on legitimate interests as a lawful basis for its processing.". The DPA updated its press release on 14 June to account for Meta's statement, whereby it welcomed Meta's decision to postpone the deployment of the AI model and stated that it is monitoring Meta's next move closely.

The press release can be found here (in Norwegian)

Apart from the Irish DPC, has any other EU DPA taken a similar position on META?

Poland

The Polish DPA issued a statement (in polish) in relation to this very recently.

In essence, the Polish DPA said that "The application of the provisions of GDPR should be the same throughout the European Union, so also the actions of the DPA in this matter must be harmonized with those of other authorities, including the Irish supervisory authority, which is leading on this issue due to the location of META's representative office."

No other laws are involved.

Spain

Besides the general guidelines for IA, machine learning, etc., the Spanish DPA has issued a post to help users managing their social media privacy settings (Instagram, Whatsapp, Tiktok) and has ordered a precautionary measure that prevents Meta from implementing the electoral functionalities that it plans to launch in Spain. Link here

UK

The UK's data protection authority, the ICO, has commented here.

There are no other laws involved.

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