

Data Protection Ireland

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Headlines

- Reform needed to deal with appeals in data protection cases, Court says, p.18
- Government commits to resolving issues around sharing of road crash data, p.19

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Pay-or-consent models are not GDPR compliant, says EDPB

The European Data Protection Board has issued an [opinion](#) on the legality of 'pay-or-consent' models.

Pay or consent, the business model first used in Europe by Meta in November 2023, was the company's response to the Court of Justice of the EU's July 2023 ruling in *Meta v Bundeskartellamt* (Case C-252/21).

The effect of the judgment was that Meta needed to obtain consent before showing ads to users, limiting its ability to tailor ads by tracking users' online activity.

According to the model, Facebook and Instagram customers' have the choice to either continue to use the services at no cost, providing they consent that their personal data are processed by Meta for a variety of purposes, or opt for a paid subscription model, in which case Meta will not process their data for those purposes. The subscriptions amount to €9.99/month on the internet and €12.99/month on iOS and Android. Effectively, the model means that people need to pay not to be tracked and served personalised advertisements.

The EDPB's opinion is that large online platforms implementing pay-or-consent models will, in most cases, not comply with the GDPR's requirements for obtaining valid consent for processing personal data. The opinion applies to companies designated as 'very large online platforms' under the Digital Services Act. However, the EDPB will issue further guidance later this year on pay or consent for smaller platforms and businesses.

The EDPB was asked to give an opinion by the Dutch, Norwegian and Hamburg Supervisory

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Launch of coordinated enforcement action on the right of access

The Data Protection Commission has announced the start of its participation in the European Data Protection Board's 2024 Coordinated Enforcement Framework ('CEF'), which is focused on Data Subject Access Requests ('DSARs').

31 Supervisory Authorities across the European Economic Area will take part in the CEF throughout 2024.

The DPC is sending questionnaires to 30 controllers across the public and private sectors to aid a fact-finding exercise.

The results will be aggregated and analysed along with the findings in the other countries, leading to a European-wide report generating deeper insight into how organisations apply the EDPB Guidelines 01/2022 on data subject rights.

Based on last year's coordinated enforcement action, which was focused on Data Protection Officers' designation and role, the questionnaire is likely to contain a wide range of questions about how organisations comply with the right of access.

The questionnaire is likely to have limited space for responses and/or no open-field questions.

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