

Subject: Urgent Concerns Regarding Meta's 'Pay or Okay' Model

To: Sir Nick Clegg, President, Global Affairs, Meta Platforms [Inc. 1 Hacker Way, Menlo Park, CA 94025 United States]

Dear Sir Nick Clegg,

We, the undersigned Members of the European Parliament (MEPs), are writing to express our deep concerns regarding your company's 'pay or okay' approach, which is currently under review by the European Data Protection Board (EDPB). The precedent you are establishing will undoubtedly have profound implications for the landscape of privacy and data protection in the European Union (EU) and worldwide for years to come. The 'pay or okay' model, as presented by Meta, would undermine the General Data Protection Regulation (GDPR) and its aim to give citizens control over their data. Any business and industry could begin to effectively coerce customers into consenting by charging non-consenting customers. As MEPs tasked with safeguarding EU fundamental rights, we find this approach unacceptable and feel compelled to address its potential implications on the protection of individuals' privacy.

The European Parliament staunchly upholds the principle that human rights are universal, inherent and inalienable aspects of human dignity and personhood. These rights cannot be relinquished by individuals as rights-holders and, consequently, ought not to be subject to commercial transactions. The right to privacy is not something you should have to purchase. Imposing a privacy fee not only segregates and discriminates but also sends a disconcerting message, suggesting that privacy and data protection are treated as commodities rather than fundamental rights. This practice undermines the essence of personal security and reinforces the alarming notion that safeguarding one's privacy comes at a cost, perpetuating an unjust system that disproportionately affects those who may already be marginalised or disadvantaged.

Under the GDPR (Article 4.11 and Recital 42), citizens must be given a 'genuine or free choice' when seeking their consent. 'Pay or okay' does not offer a free choice but aims at effectively predetermining and thus removing that choice. The online activities of an individual allow for deep insights into their (past and future) behaviour and make it possible to manipulate them. We know that only a small fraction of users really wish for tracking-based personalised advertising, but where the only alternative is having to pay, 99.9% of users will grudgingly rather accept being pervasively tracked and micro-targeted. This type of economic coercion does not provide you with genuine and freely given consent that is valid.

Privacy must not become a luxury. Charging up to 300 €¹ per year just to access Meta's services without surveillance advertising would bring the cost of an entire tracking-free Internet experience to prohibitive amounts. The cost of your subscription appears both unjust and inappropriate, since it does not seem to account for any alleged profit losses resulting from the inability to personalise advertisements, as compared to non-personalised ones. We believe that any such potential loss would be, at most, marginal—a tiny fraction of the fee you are charging.

The European Court of Justice has allowed you to charge non-consenting users only if a fee is "necessary", but no such fee is needed to fund your services. 'Pay or okay' suggests a false choice between purchasing an ads-free experience or consenting to pervasive tracking of our online lives followed by surveillance-based advertising. There is a third possibility of presenting contextual advertising that does not require personalised tracking and surveillance. Studies suggest that contextual advertising is nearly as profitable as surveillance-based advertising.

¹ A consumer using one Facebook and one Instagram account on a mobile device, and not wishing to have their personal data combined across these accounts, is charged 25.98 € per month, or 311.76 € per year.

In conclusion, we urge your company to scrap the 'pay or okay' model and align your business with the principles of the GDPR, respecting the fundamental rights of EU citizens and residents. The trajectory of privacy and data protection is at a critical juncture, and it is imperative that all stakeholders, including tech giants like yours, uphold their responsibilities to safeguard these rights. We stand firm in our commitment to preserving the integrity of the GDPR and ensuring that individuals retain genuine control over their personal data without coercion or discrimination.

Yours sincerely,

The undersigned Members of the European Parliament,

1. Patrick Breyer
2. Karen Melchior
3. Petar Vitanov
4. Anja Haga
5. Martin Schwirdewan
6. Anna Donath
7. David Cormand
8. Manon Aubry
9. Gwendoline Delbos-Corfield
10. Thomas Waitz
11. Clara Ponsatí Obiols
12. Saskia Bricmont
13. Cornelia Ernst
14. Stelios Kouloglou
15. Dietmar Köster
16. Pierre Larrousurou
17. Mick Wallace
18. Clare Daly
19. Sara Matthieu
20. Ivan Vilibor Sincic
21. Martin Buschmann
22. Leïla Chaïbi
23. Marina Mesure
24. Alexandra Geese
25. Rasmus Andresen
26. Petra Kammerevert
27. François Alfonsi
28. Benoît Biteau
29. Damien Carême
30. Karima Delli
31. Claude Gruffat
32. Lydie Massard
33. Caroline Roose
34. Mounir Satouri
35. Marie Toussaint
36. François Thiollet
37. Marketa Gregorova
38. Marcel Kolaja
39. Mikulas Peksa