

Press release

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Administrative order against the mass synchronisation of data between Facebook and WhatsApp

The Hamburg Commissioner for Data Protection and Freedom of Information has issued an administrative order that prohibits Facebook with immediate effect to collect and store data of German WhatsApp users. Facebook is also ordered to delete all data that has already been forwarded by WhatsApp.

Facebook and WhatsApp are independent companies that process their user's data on the basis of their own Terms and Conditions and Data Privacy Policies. After the acquisition of WhatsApp by Facebook two years ago, both parties have publicly assured that data will not be shared between them. The fact that this is now happening is not only a misleading of their users and the public, but also constitutes an infringement of national data protection law. Such an exchange is only admissible if both companies, the one that provides the data (WhatsApp) as well as the receiving company (Facebook) have established a legal basis for doing so. Facebook, however, neither has obtained an effective approval from the WhatsApp users, nor does a legal basis for the data reception exist. It is clear that Facebook must respect German data protection law after the ECJ confirmed in its ruling from July, that national data protection laws are applicable if a company processes data in connection with a national subsidiary. Facebook is doing this through its subsidiary in Hamburg, which is responsible for the operation of the marketing business in German-speaking regions.

Johannes Caspar, the Hamburg Commissioner for Data Protection and Freedom of Information, said:

„This administrative order protects the data of about 35 million WhatsApp users in Germany. It has to be their decision, whether they want to connect their account with Facebook. Therefore, Facebook has to ask for their permission in advance. This has not happened.

In addition, there are many millions of people whose contact details were uploaded to WhatsApp from the user's address books, although they might not even have a connection to Facebook or WhatsApp. According to Facebook, this gigantic amount of data has not yet been collected. Facebook's answer, that this has merely not been done for the time being, is cause for concern that the gravity of the data protection breach will have much a more severe impact."

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