A legal analysis of Facebook privacy practices

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Privacy is …

“espoused as the most fundamental of rights, marketed as the most desirable of commodities, and pronounced dead twice a week.”

Agenda

- Main findings
- Tracking through social plug-ins
- Actions by CBPL
- Impact GDPR
Main findings
Main findings

- How Facebook combines and shares data
- Privacy settings
- Unfair contract terms
- Location data
- User-generated content
- Data subject rights
- Tracking of (non-)users
Combining data “cross-everything”

Reach all the right people

Cross-Everything

by Facebook
Privacy settings

You’re in charge.

We’re here to help you get the experience you want. Learn about ways to protect your privacy on Facebook.

› What Others See About You
› How Others Interact With You
› What You See
› How to Keep Your Account Secure
› Read our Data Policy
German court Fines Facebook $109,000 Over Intellectual Property Clause
Tracking through social plug-ins
Tracking through social plug-ins

“What’s not to Like?”

![Facebook Like button with a count of 844 people liking Gayworld.](image)
Information received

• Cookies

<table>
<thead>
<tr>
<th>Cookie</th>
<th>Contains</th>
<th>Logged-in</th>
<th>Logged-out</th>
<th>Deactivated</th>
<th>Non-user</th>
</tr>
</thead>
<tbody>
<tr>
<td>datr</td>
<td>Browser ID</td>
<td>Sent</td>
<td>Sent</td>
<td>Sent</td>
<td>Sent^3</td>
</tr>
<tr>
<td>c_user</td>
<td>Facebook ID</td>
<td>Sent</td>
<td>Not sent</td>
<td>Not sent</td>
<td>N/A^5</td>
</tr>
<tr>
<td>fr</td>
<td>Encrypted Facebook ID and Browser ID</td>
<td>Sent</td>
<td>Sent</td>
<td>Sent</td>
<td>N/A</td>
</tr>
</tbody>
</table>

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• URLs of visited webpages
• Other information (IP, browser, OS, …)
“Opt-out”

If you don’t want Facebook or other participating companies to collect or use information based on your activity on websites, devices, or apps off Facebook for the purpose of showing you ads, you can opt out through the Digital Advertising Alliance in the USA, Digital Advertising Alliance of Canada in Canada or the European Digital Advertising Alliance in Europe. You can also opt out using your mobile device settings.

Your ad choices

The companies listed below are some of the providers who work with website providers to collect and use information to provide online behavioural advertising.

Please use the buttons below to control your online behavioural advertising preferences. You can turn off or turn on all companies or alternatively set your preferences for individual ones. By clicking on the expand button you can find out more about the company itself as well as its behavioural advertising status on the web browser that you are using. If you are having any problems please visit our help page.

Please note: this does not turn off all internet advertising only advertisements that are Collecting your status from 102 companies. This may take a while...
Article 5(3) ePrivacy Directive

• Prior consent unless necessary for
  – network communication
  – service explicitly requested by user

• WP29 Opinion 4/2012
  – OBA requires opt-in, opt-out insufficient
  – no exemption for tracking non-users (“not of any use for non-members”)
Actions by CBPL
CBPL actions

• Recommendation 04/2015
  – Facebook
  – Website operators
  – Internet users

• Litigation
  – Trib. Brussels 9 Nov 2015 (injunction)
  – Ordinary procedure (users & non-users)

• Common Statement

• Blocking by Facebook
Impact of the GDPR
GDPR

• Consent
  – opt-in
  – provision of a service dependent on the consent

• Privacy by design & by default
  – increased emphasis on role of technology
Thank you for your attention!
Questions?

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www.citip.be