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Electronic Privacy Information Center Defends Privacy Rights of WhatsApp Users

EPIC, CDD File Complaint with Federal Trade Commission

Washington, DC (August 29, 2016) – The Electronic Privacy Information Center (EPIC) and the Center for Digital Democracy (CDD) today filed a complaint with the Federal Trade Commission, stating that the WhatsApp plan to transfer user data to Facebook is unlawful and that the FTC is obligated to block the proposed change in business practices.

The EPIC-CDD complaint responds to a recent announcement from WhatsApp that the company plans to disclose the verified telephone numbers of WhatsApp users to Facebook for user profiling and targeted advertising.

“When Facebook acquired WhatsApp, WhatsApp made a commitment to its users, to the Federal Trade Commission, and to privacy authorities around the world not to disclose user data to Facebook. Now they have broken that commitment,” said Marc Rotenberg, President of EPIC. “Clearly, the Federal Trade Commission must act. The edifice of Internet privacy is built on the FTC’s authority to go after companies that break their privacy promises.”

Facebook and WhatsApp are the two largest social network services in the world. According to Wikipedia, WhatsApp has over one billion users. Facebook purchased the company in February 2014 for 19.3 billion dollars.

EPIC Consumer Protection Counsel Claire Gartland explained, “In 2014, the FTC said that WhatsApp had to obtain affirmative consent to transfer user data to Facebook. There was an opt-out provision but that only applied to new information. Since WhatsApp intends to transfer user telephone numbers, which is not new data, it must obtain opt-in consent.”

Gartland continued, “The phone number may also be the single most valuable piece of personal data obtained by WhatsApp. WhatsApp users are required to

provide a verified phone number to use the service. And the phone number provides a link to a vast amount of personal information.”

“The proposed change – an opt-out for data previously obtained – is exactly what the FTC said WhatsApp could not do,” said Gartland. “The transfer is only allowed if the consent is opt-in.”

“The FTC has an obligation to protect WhatsApp users. Their personal information should not be incorporated into Facebook’s sophisticated data driven marketing business,” said Katharina Kopp, Ph.D., and CDD’s Director of Policy. “Data that was collected under clear rules should not be used in violation of the privacy promises that WhatsApp made. That is a significant change that requires an opt-in, according to the terms the FTC set out. It’s not complicated. If WhatsApp wants to transfer user data to Facebook, it has to obtain the user’s affirmative consent.”

In 2011, EPIC, CDD and more than a dozen consumer privacy organizations pursued a successful complaint at the FTC that led to a twenty-year consent order after Facebook changed user privacy settings in a way that made users' personal information, such as Friend lists and application usage data, more widely available to the public and to Facebook’s business partners.

Former FTC Chair John Liebowitz said at the time, “Facebook is obligated to keep the promises about privacy that it makes to its hundreds of millions of users. Facebook's innovation does not have to come at the expense of consumer privacy. The FTC action will ensure it will not.”

When Facebook proposed to acquire WhatsApp in 2014, EPIC and CDD said the FTC must protect the privacy of WhatsApp users. The FTC said that WhatsApp must continue to honor its privacy promises to consumers.

The FTC warned, “If the acquisition is completed and WhatsApp fails to honor these promises, both companies could be in violation of Section 5 of the Federal Trade Commission (FTC) Act and, potentially, the FTC's order against Facebook.”

The Federal Trade Commission has previously undertaken investigations against many firms that have engaged in unfair or deceptive trade practices.

***[The Electronic Privacy Information Center \(EPIC\)](#)** is a public interest research center in Washington, DC. EPIC was established in 1994 to focus public attention on emerging privacy and civil liberties issues and to protect privacy, freedom of expression, and democratic values in the information age. EPIC maintains one of the most popular privacy web sites in the world - [epic.org](#) - and pursues a wide range of program activities including policy research, public education, litigation, publications, and advocacy.*

***The Center for Digital Democracy (CDD)** is recognized as one of the leading consumer protection and privacy organizations in the United States. Since its founding in 2001 (and prior to that through its predecessor organization, the Center for Media Education), CDD has been at the forefront of research, public education, and advocacy protecting consumers in the digital age.*

REFERENCES

EPIC/CDD, In the Matter of WhatsApp: Complaint, Request for Investigation, Injunction, and Other Relief (Aug. 29, 2016),
<https://epic.org/privacy/ftc/whatsapp/EPIC-CDD-FTC-WhatsApp-Complaint-2016.pdf>

FTC, “Enforcing Privacy Promises” (2016),
<https://www.ftc.gov/news-events/media-resources/protecting-consumer-privacy/enforcing-privacy-promises>

FTC Press Release, “FTC Notifies Facebook, WhatsApp of Privacy Obligations in Light of Proposed Acquisition” (Apr. 10, 2014),
<https://www.ftc.gov/news-events/press-releases/2014/04/ftc-notifies-facebook-whatsapp-privacy-obligations-light-proposed>

FTC Letter to FB and WhatsApp, “Letter From Jessica L. Rich, Director of the Federal Trade Commission Bureau of Consumer Protection, to Erin Egan, Chief Privacy Officer, Facebook, and to Anne Hoge, General Counsel, WhatsApp Inc.” (Apr. 10, 2014),
<https://www.ftc.gov/news-events/press-releases/2014/04/ftc-notifies-facebook-whatsapp-privacy-obligations-light-proposed>

FTC, “Facebook Settles FTC Charges That It Deceived Consumers By Failing To Keep Privacy Promises” (2011),
<https://www.ftc.gov/news-events/press-releases/2011/11/facebook-settles-ftc-charges-it-deceived-consumers-failing-keep>

FTC Consent Order with FB (2011),
<https://www.ftc.gov/news-events/press-releases/2012/08/ftc-approves-final-settlement-facebook>

EPIC, In re WhatsApp,
<https://epic.org/privacy/internet/ftc/whatsapp/>

EPIC, In re Facebook,
<https://epic.org/privacy/inrefacebook/>

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