

# Dislike: Facebook will appeal German data-use ruling

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President of the German antitrust authority 'Bundeskartellamt' Andreas Mundt talks to the media at a press conference about Facebook. German antitrust authorities have issued a ruling prohibiting Facebook from combining user data from different sources. (Rolf Vennenbernd/dpa via AP)

German authorities ruled Thursday that Facebook should not be allowed to use customer data from other apps and websites to help target advertisements shown on their Facebook pages without their explicit

consent, saying it was exploiting its dominant position in social media.

The Federal Cartel Office, or Bundeskartellamt, said Facebook was guilty of "exploitative abuse" by forcing users to agree to allow it to collect data from other Facebook-owned services like WhatsApp and Instagram, as well as third-party websites through the "Like" or "Share" features.

"On the one hand there is a service provided to users free of charge," Cartel Office president Andreas Mundt said. "On the other hand, the attractiveness and value of the advertising spaces increase with the amount and detail of user data. It is therefore precisely in the area of data collection and data use where Facebook, as a dominant company, must comply with the rules and laws applicable in Germany and Europe."

Facebook said it rejected the decision, and would appeal within the one-month frame before it becomes final.

If the ruling is upheld, Facebook will be required to allow users to specifically approve data collected from other Facebook-owned sources and third-party websites be assigned to their accounts. The decision is not about Facebook's processing of data generated by its own site, which the Cartel Office acknowledged is the business model for data-based social networks like Facebook.

Facebook said that with its ruling, the Cartel Office underestimates the competition Facebook has in Germany from YouTube, Snapchat, Twitter and others in calling it a "dominant company," misinterprets Facebook's compliance with regulations, and undermines mechanisms provided for in European law ensuring consistent data protection standards.

"The Bundeskartellamt's decision misapplies German competition law to set different rules that apply to only one company," Facebook said.

It noted that it had been cooperating with the office in its investigation since 2016, and will continue discussions, but would also "defend these important arguments in court."

In ruling that Facebook was a "dominant company," the Cartel Office said it was subject to "special obligations under competition law" and "must take into account that Facebook users practically cannot switch to other social networks."



In this Thursday, Nov. 15, 2018 file photo the icons of Facebook and WhatsApp are pictured on an iPhone in Gelsenkirchen, Germany. German antitrust authorities have issued a ruling prohibiting Facebook from combining user data from different sources. (AP Photo/Martin Meissner)

"The only choice the user has is either to accept the comprehensive combination of data or to refrain from using the social network," it said in its judgment. "In such a difficult situation the user's choice cannot be referred to as voluntary consent."

It said many users were not aware that Facebook is currently able to "collect an almost unlimited amount of any type of user data from third-party sources," which allows it to better target specific advertisements to specific user's interests.

"By combining data from its own website, company-owned services and the analysis of third-party websites, Facebook obtains very detailed profiles of its users and knows what they are doing online," Mundt said.

Facebook has said that it plans to integrate the messaging functions of WhatsApp, Instagram and Messenger in 2020 or later. While it has not given many details, CEO Mark Zuckerberg said in a conference call recently that the idea is to help users message people more easily, without having to navigate different platforms and lists. The company also said it would encrypt all the services (currently only WhatsApp is encrypted by default).

But critics have raised another possible reason—the threat of antitrust crackdowns. Essentially, if Facebook combines its messaging services so that they are different in name and design only, it will be much more difficult, if not impossible, to then separate out and spin off Instagram and WhatsApp as separate companies.

Combining the three services also lets Facebook build more complete data profiles on all of its users. It has already been moving in this direction. Businesses can already target Facebook and Instagram users together with the same ad campaign, for example. While WhatsApp does not yet have ads, it's not too hard to imagine that this is not too far

behind. Instagram also encourages [users](#) to link their accounts to Facebook and it suggests their Facebook friends as contacts to add on Instagram.

Then there's competition from other messaging services, such as Apple's or Google's. Users are more likely to stay within Facebook's properties if they can easily message their friends across different services, rather than having to switch between Messenger, WhatsApp and Instagram.

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