

GDPR: Largest ever fine issued

The Data Protection Commission of Ireland (the "DPC") recently announced the conclusion of its inquiry into Meta Platforms Ireland Limited ("Meta"). This focused on the basis for Meta transferring personal data from the EEA to the US in connection with its Facebook services. Under this judgement Meta has been ordered to suspend future transfers of personal data to the US, to bring its operations into compliance with the General Data Protection Regulation ("GDPR") and to pay a fine of €1.2 billion.

Background

The DPC's decision documents that Meta continued to transfer personal data from the EEA to the US after the delivery of the judgement of the European Court of Justice ("CJEU") in the case of *Data Protection Commissioner v Facebook Ireland Limited and Maximillian Schrems*. Meta effected the transfers on the basis of Standard Contractual Clauses and a range of supplementary measures however, the DPC found that the arrangements did not address the risks to the fundamental rights and freedoms of data subjects that were identified by the CJEU in its judgment.

The DPC issued a draft decision in July 2022 where Meta was found to be in breach of Article 46(1) of the GDPR and was ordered to suspend the data transfers. The draft decision was submitted to the DPC's peer regulators pursuant to Article 60 of the GDPR. In its draft decision the DPC did not recommend that a fine be imposed but four of the peer regulators disagreed with this and were of the view that an administrative fine should be imposed. The DPC did not agree with this and following an informal consultation process it was evident that an agreement would not be reached, and the objections were referred to the European Union Data Protection Board (the "EDPB") in line with Article 65 of the GDPR.

DPC's decision

The EDPB adopted its binding decision in April 2023 and the DPC adopted its final decision earlier this month. Meta was ordered to

suspend future transfers of personal data to the US within 5 months from the date Meta was notified of the DPC's decision and bring its operations into compliance with chapter V of the GDPR by ceasing all unlawful processing of personal data of EEA users in the US within 6 months of the date Meta was notified of the decision. A record administrative fine of €1.2 billion was also imposed.

What's Next ?

This judgment sends a strong message to organisations who transfer EEA user data to the US and could have significant consequences for these organisations. Organisations who transfer personal data to the US should review the arrangements they currently have in place to ensure that they are in full compliance with the GDPR.

Meta issued a statement in response to the judgment and indicated that it will be appealing the decision. The Data Protection team at Clerkin Lynch will be monitoring this area and will provide an update in due course.

How Clerkin Lynch can help

The data protection team at Clerkin Lynch advises on relevant legislation including the GDPR and other privacy regulations in Ireland. We assist firms with specific queries as well as in drafting related policies and procedures to ensure compliance.



Mark Browne
Partner
Email: markbrowne@clerkinlynch.com
Phone: 01 611 4400



Eileen Woods