



Dr. Thilo Weichert, Commissioner
Independent Centre for Privacy Protection for Schleswig-Holstein
Holstenstr. 98, 24103 Kiel, Germany

August 25, 2011

Re: Your press release of August 19, 2011, concerning use of Facebook services

Dear Dr. Weichert:

I am the Director of Operations for Facebook Ireland Limited, an Irish company that provides Facebook's services to individuals and businesses in Germany. I write now in response to your public comments last week regarding the use by third parties of our services in Schleswig-Holstein. In your comments, you declared that our "Like Button" and our "Pages" features were in violation of the German Telemedia Act (TMG), the Federal Data Protection Act (BDSG), and the Data Protection Act of Schleswig-Holstein (LDSG SH), and ordered website owners in Schleswig-Holstein to immediately stop transferring user data to Facebook in the United States by deactivating these services.

As you are no doubt aware, we have very regular contact with our supervisory data protection authority in Europe, the Irish Data Protection Commissioner, as well as with a number of other data protection authorities who have, from time to time, made inquiries of us about our service. In particular, Facebook is in regular and frequent communication with the Hamburg Data Protection Commissioner, who I understood was to be regarded as the main interlocutor with Facebook on behalf of German data protection authorities generally.

As you know, Facebook has three EU-based advisers on data protection policy issues: Richard Allan, our London-based Direct of EU Policy, Virginie Rousseau, our Dublin-based Legal Counsel, and Eva-Maria Kirschsieper, our Privacy and Policy Manager based in Germany. I understand that you have corresponded with Mr. Allan in the past, and that your team met with Facebook representatives at the Data Protection Conference in Jerusalem in November 2010. Accordingly, given the variety of communication channels we have endeavored to create with your office, I was surprised and disappointed that your comments appeared in the media without any prior communication to us from your office. Perhaps you have tried to contact Mr. Allan or Ms. Kirschsieper without success, in which case I sincerely apologize for any miscommunication. Both of these individuals are able and willing to discuss the issues you raised, and I am confident that had you reached out to Mr. Allan or Ms. Kirschsieper, they would have provided important information that does not appear to be reflected in your paper. I certainly hope that we can avoid this situation in the future and to that end, I provide contact information for Mr. Allan and Ms. Kirschsieper below.

We are reviewing and considering the substance of your report and will respond in greater detail in due course. In the meantime, however, we want to ensure that you are aware of the following facts, which we have communicated to the Hamburg Data Protection Authority in accordance with our understanding of Professor Caspar's role.

First, Facebook does not log IP addresses that geo-locate to Germany unless the visitor to a website with a Like Button is a logged in Facebook member. We also do not log the IP addresses of logged-in



Facebook members who simply visit a website with a social plugin. We *only* store in log files the IP address of a logged-in Facebook member who takes an action, e.g., clicks on the Like Button. Such an action sends that information back to Facebook, and the IP address is associated with the Facebook member's action. This use of data is clearly described in our Privacy Policy.

Second, for complete clarity, we do not log any IP addresses that geo-locate to Germany. Therefore, an individual could be visiting any website in the world with a social plugin and we would not log the IP address if he or she were using an IP address located in Germany.

And third, Facebook uses cookies for two purposes primarily: to support site security, and to provide a social context and social features to Facebook members on Facebook and around the web. Unlike other major global websites, Facebook does not use cookies to track Facebook members or non-members across the web or to gather data about Facebook members or non-members. What is unique about Facebook is that our members explicitly tell us what they like. Tracking through cookies is much more valuable for websites that need to gather information about what their users are interested in.

We also understand that you see the provision of Facebook Insights as being problematic. The Facebook Insights tool does not provide any personally identifiable information to those using Facebook for promotional purposes. Rather, it provides aggregate statistics with general demographic breakdowns. Facebook Insights draws on data that has been collected, in accordance with our Privacy Policy, during the normal operation of our service, and the Insights tool places no cookies specifically for its own purposes. It is therefore unclear to us why you should regard there as being any problem with this tool.

With the above in mind, it would be helpful for us to understand more about the origins of this investigation. May we ask you to inform us how many complaints you have received from residents of Schleswig-Holstein concerning a) Like Buttons and b) Pages/Insights and describe the nature of their concerns?

We are very concerned that the actions that you are proposing to take, as we understand them from press reports, such as levying fines against individuals and organizations in Schleswig-Holstein who use our service, are potentially very damaging to a wide range of interests. Millions of people around the world use Facebook Like Buttons and Pages as a very effective way of promoting their businesses and causes, and communicating with their constituents, including many people in Schleswig-Holstein who have invested in such promotional strategies. The threat of being fined if they continue to deploy these commonly used social media promotional methods clearly places people in Schleswig-Holstein in an extremely difficult position. We note that many governments, government officials, businesses and other organizations use Facebook as a positive communication tool and that some have already expressed their concerns that they do not wish to see unexpected and unnecessary limitations placed on their ability to use the most effective communications methods.

We have already been contacted by many users of our services, not just in Schleswig-Holstein but across Germany, expressing their concern about the implications of your comments. We believe that it would be beneficial for those organizations if you were able now to make clear in public that you will not be taking enforcement action pending the outcome of discussions with Facebook concerning the detailed questions you have raised.



We are confident that further clarifications about our service will lead to people in Schleswig-Holstein being able to continue to use our service.

As we have already been working with the Hamburg Data Protection Authority on Facebook-related issues for some time we would propose that we jointly ask Professor Caspar to continue to lead any direct discussions with Facebook and provide him with your report and our response to the points raised in it. We do understand that Prof. Caspar would want to share this information with the other German DPAs.

A courtesy German translation of this letter will follow. I await your reply with some urgency.

Yours Truly,

Colm Long
Director of Operations
Facebook Ireland Limited

pp Virginie Rousseau

A handwritten signature in black ink, appearing to be "V. Rousseau", with a long horizontal stroke extending to the right.

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