

Data Protection Ireland

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Headlines

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Commission suspends Meta data transfers

The Data Protection Commission has published its highly anticipated [decision](#) ('the Decision') against Meta Ireland in relation to Facebook's transfer of user personal data to the US, ordering the suspension of all transfers.

The DPC issued Meta with a record-breaking fine of €1.2 billion, along with an order to remedy its previous non-compliance within six months of the date of the decision.

The Decision offers clarity for all EU-based organisations transferring data to the US in the challenging aftermath of *Schrems II*

and whilst a new data transfer framework between the US and EU is awaited.

Meta had sought to rely on recent US legislation changes — specifically the October 2022 Executive Order on enhancing safeguards for US intelligence activities — to be taken into account by the DPC in its decision.

However, this was not allowed by the DPC on the basis that the EU has yet to be designated by the US as a 'qualifying state' and the processes and guidance that underpin the new US laws have not yet been adopted.

According to the Decision, the Standard Contractual Clauses introduced by the European Data Protection Board ('EDPB') in 2021 to deal with deficiencies in the 2010 SCCs do not implement any new measures that compensate for the inadequacies in the level of protection afforded to personal data under US law. This is primarily because the US government bodies that continue to have the right to compel access to personal data are not party to the SCCs.

Like many organisations transferring data over-

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New guidance for employers

The DPC has issued new [guidance](#) ('the Guidance') specifically aimed at assisting employers regarding their data processing obligations and duties when processing the personal data of their former, current and prospective employees.

The Guidance advises on various topics including dealing with employee emails, navigating purpose limitation and employee monitoring.

The DPC receives a large number of queries on emails, and notes that this is often in the context of an employee making a subject access request.

The Guidance states that although an individual's name is clearly their personal data, it's unlikely that the content of an email signed off by someone in their professional or work capacity constitutes their personal

data. Many employers have generally sought to exclude pure 'work product' from the results provided to employees.

The Guidance makes it clear that this approach is reasonable. However, the Guidance states that employers must still examine the content of the email to ascertain if it could be considered personal data. In other

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