

By registered mail, regular mail and e-mail: info@facebook.com, press@fb.com

Facebook Netherlands B.V.
Herengracht 124-128
1015 BT Amsterdam The Netherlands

Facebook Ireland Limited
4 Grand Canal Square, Grand Canal Harbour
2 Dublin Ireland

Facebook Inc. and Instagram LLC
1601 Willow Rd
Menlo Park, CA 94025-1456
United States of America

WhatsApp Inc.
650 Castro Street, Suite 120-219
Mountain View, California
United States of America

Amsterdam, 21 January 2016

Re: **Data protection after ECJ judgment Schrems C-362/14**
Our ref.: 20150153 Privacy First/PILP and others - Facebook
Email: volgenant@boekx.com, blokhuis@boekx.com, vangoenendaal@boekx.com

Dear Mr. Zuckerberg,

This is to acknowledge receipt of the reply from Facebook Ireland on 15 January 2016 in response to our letter dated 15 December 2015.

We noted that Facebook provided [written evidence](#) as input on the proposed surveillance legislation in the UK on 21 December 2015. We were happy with the points Facebook¹ raised, including the following observations and suggestions:

“We appreciate the opportunity to consult on the Bill. To that end, we advance a number of issues that we believe are important to serve UK citizens and the citizens of other nations, while ensuring that citizens’ human rights and privacy rights are protected. This includes ensuring the Bill satisfies ECJ scrutiny and also builds greater legal certainty and consistency for the proposed measures.”

¹ in coalition with Google, Microsoft, Twitter and Yahoo, as members of the [Reform Government Surveillance coalition](#).



(...) Governments should not be able to compel the production of private communications content absent authorization from an independent and impartial judicial official.

(...) As set forth in the Reform Government Surveillance principles, surveillance laws should not permit bulk collection of information. The principles require that the Government specifically identify the individuals or accounts to be targeted and should expressly prohibit bulk surveillance.”

We wholeheartedly concur with the above suggestions you made to the UK Government. Now that Facebook has publicly taken this position in the discussion about a new surveillance bill in the UK, we request Facebook to publicly take this same position in a dialogue on the protection of personal data and mass surveillance in the United States and the fundamental problems identified by the European Court of Justice in the *Schrems*-judgment.

The European Commission [indicated](#) on 6 November 2015 that it aims at finding a solution with the US Government within three months, which period thus ends on 6 February 2016. We urge Facebook to weigh in on that discussion and to show that Facebook is truly concerned about the rights of its users.

In our letter dated 15 December 2015, we explained why other instruments currently used as basis for data transfer such as the *Standard Contractual Clauses* or individual consent are fundamentally flawed, as these options do not resolve the problems identified by the European Court of Justice in the *Schrems*-judgment.

If no political solution is found by 6 February 2016, we reserve the right to initiate legal proceedings with the Court in The Hague requesting a preliminary injunction and/or raising prejudicial questions with the European Court of Justice.

We look forward to hearing from you.

Yours sincerely,



Otto Volgenant
Attorneys-at-law



Fulco Blokhuis



Jurian van Groenendaal