

**Question for written answer E-003424/2023
to the Commission**

Rule 138

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Subject: Meta, Facebook and Instagram pop-up: illegally making users pay for privacy

Meta has recently started displaying pop-ups on its Facebook and Instagram services obliging users wishing to continue using the service to choose between:

a) rejecting tracking and other processing of their personal data for advertisements by opting to pay a monthly fee starting at EUR 12.99.

or.

b) accepting tracking and other processing of their personal data to target advertising but continuing to use the service for free.

1. Does the Commission agree this is illegal under the General Data Protection Regulation (GDPR)¹, as making the provision of a service conditional upon consent, while making the rejection of processing conditional upon payment can never be 'freely given' consent under the GDPR?
2. Does the Commission agree this could be illegal under the Digital Services Act², notably Articles 26(3) and 28, as many minors on Instagram are presented with this choice and it is unclear what data are being processed, and is the Commission prepared to use its enforcement powers?
3. Alternatives for tracking, such as contextual advertising are available and feasible. As millions of users in the EU are currently confronted with this choice, what will the Commission do to urgently ensure the right data protection is protected and people in the EU do not have to pay for their privacy?

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¹ OJ L 119, 4.5.2016, p. 1.

² COM(2020)0825.