Submission by „Facebook Ireland Ltd"
to the Office of the Irish Data Protection Commissioner

Response to Complaint(s) Number: 10

The following submission by "Facebook Ireland Ltd" is a response to complaints filed by "europe-v-facebook.org" before the Irish Data Protection Commissioner as amended by our "request for a formal decision". It was received by "europe-v-facebook.org" on September 30th 2013.

The submission starting on page 2 of this PDC does only reflect the view of "Facebook Ireland Ltd" and was not changed or amended. The submissions were likely drafted by Facebook Ireland's law firm "Mason, Hayes & Curran". We did not receive any addition documents from "Facebook Ireland Ltd". All other documents of this procedure can be downloaded on "europe-v-facebook.org".

After we took a first look at the submissions by "Facebook Ireland Ltd" we want to mention the following points, to ensure that any reader will get the full picture of the procedure:

1. In the submissions Facebook Ireland Ltd does in many cases **not responded to our complaints**, but produced arguments and submissions that are irrelevant to the complaints filed. It seems that Facebook Ireland Ltd is trying to "bypass" the arguments we entertained.

2. In the submissions Facebook Ireland Ltd does in many cases **summarize our complaints** in a way that does not reflect the content of our complaints. We do not know why Facebook Ireland Ltd has chosen this approach other then again "bypassing" the core of the complaints.

3. In the submission Facebook Ireland Ltd does not respond to the **legal arguments** that were submitted by us, but only focus on facts. The law is not cited in any of the submissions.

4. In the past 2 years Facebook Ireland Ltd has changed many functions. In the submissions Facebook Ireland Ltd does in many cases **mix the factual situation** throughout this time period. Our complains are usually separating facts and consequences before and after such changes.

5. In the submission Facebook Ireland Ltd does in many cases refer to the "**audit reports**". The basis for these reports is not public or independently verifiable. In many cases the DPC has only relied on unverified arguments by Facebook Ireland Ltd when making its assessment. Facebook Ireland Ltd is now relying on these findings, as if they were independently verifiable facts.

➔ **Therefore we recommend to consult our original complains, as amended by the "request for a formal decision" [DOWNLOAD] when analyzing the submissions from "Facebook Ireland Ltd".**

COMPLAINT 10 – SUBJECT ACCESS REQUESTS

1. BACKGROUND

1.1. How can Facebook users access their personal data?

During the audit, FB-I devised, in consultation with the DPC, an innovative and effective way for users to exercise their statutory right to access their personal data. Facebook users can use the tools provided in their Facebook account to directly access their personal data. This cutting edge approach avoids the need for users to submit a formal subject access request and wait up to 40 days for a response. FB-I is not aware of any other web service which provides users with such easy and straightforward access to their personal data.

In the 2012 Audit Report, the DPC expressed satisfaction that FB-I's approach met the requirements of the Data Protection Acts 1988 and 2003.[1] The DPC came to this conclusion having had the benefit of full access to all data held by FB-I and having made an extensive technical review of Facebook's back-end architecture.

Facebook users can find their Facebook data in three places:

- Their Facebook account

- The activity log

- Download your information

1.2. Facebook account

A user can access most of his or her data held by FB-I by simply logging into their Facebook account. For example a user's timeline contains the posts a user has shared on Facebook, along with comments and other interactions from other users. In addition, a user can find their message and chat conversations by going to their inbox, or the photos or videos that they have been added to or tagged in by going to those sections of their timeline.

1.3. Activity log

Within a user's account, the activity log is a history of that user's activity on Facebook, from the posts he or she commented on or liked, to the apps he or she has used, to anything for which he or she has searched.

1.4. Download your information

The "download your information" (or DYI) tool lets a user download a file containing much of his or her personal data. The DYI download contains much of the same information available to a user in their account and activity log, including their timeline information, posts they have shared, messages, photos and more. In addition, it includes information that is not otherwise available in a user's account, like the ads they have clicked on and the IP addresses that are logged when a user logs into, or out of, Facebook.

Prior to July 2013, users could use two separate tools to access their information: "download your information" and "expanded archive". These tools were developed separately for technical reasons. The two tools have since been merged into the current iteration of DYI.

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[1] This finding was conditional upon FB-I making photographic metadata available to users. This data category of data is now available in DYI.

A user can download his or her information from the account settings page. To limit the risk that an unauthorised third party may attempt to download a user's information, FB-I deploys a number of safeguards to protect this information.

When a user goes to download their information, FB-I will seek further confirmation of the user's identity (by requiring the re-entry of the account password) before the process will begin. Once the download is ready, FB-I will send an email to the email address associated with the relevant Facebook account along with a link to the download. For security reasons, the link will expire after a few days, after which a user will need to repeat the download process. Before a user can download the file containing the data, they will have to again enter their account password. In addition, if an attempt to download is detected from a public computer or one which is not used regularly by that user, the user may be required to solve a friend photo CAPTCHA or an SMS CAPTCHA via their mobile phone.

1.5. **What data does FB-I make available via the activity log and DYI?**

FB-I sets out below the categories of data which it presently makes available via the activity log and DYI. As the categories of data that FB-I receives, collects and saves may change over time (due to the development of new products and features and the discontinuation of certain features, products or categories of data processing) this list may be modified in future. The current version of this list is publicly available at: https://www.facebook.com/help/405183566203254

What info is available?	What is it?	Where can I find it?
About Me	Information you added to the **About** section of your timeline like relationships, work, education, where you live and more. It includes any updates or changes you made in the past and what is currently in the **About** section of your timeline.	Activity Log Downloaded Info
Account Status History	The dates when your account was reactivated, deactivated, disabled or deleted.	Downloaded Info
Active Sessions	All stored active sessions, including date, time, device, IP address, machine cookie and browser information.	Downloaded Info
Ads Clicked	Dates, times and titles of ads clicked (limited retention period).	Downloaded Info
Address	Your current address or any past addresses you had on your account.	Downloaded Info
Ad Topics	A list of topics that you may be targeted against based on your stated likes, interests and other data you put in your timeline.	Downloaded Info
Alternate Name	Any alternate names you have on your account (ex: a maiden name or a nickname).	Downloaded Info
Apps	All of the apps you have added.	Downloaded Info
Birthday Visibility	How your birthday appears on your timeline.	Downloaded Info

Chat	A history of the conversations you've had on Facebook Chat (a complete history is available directly from your messages inbox).	Downloaded Info
Check-ins	The places you've checked into.	Activity Log Downloaded Info Activity Log
Connections	The people who have liked your Page or Place, RSVPed to your event, installed your app or checked in to your advertised place within 24 hours of viewing or clicking on an ad or Sponsored Story.	Activity Log
Credit Cards	If you make purchases on Facebook (ex: in apps) and have given Facebook your credit card number.	Account Settings
Currency	Your preferred currency on Facebook. If you use Facebook Payments, this will be used to display prices and charge your credit cards.	Downloaded Info
Current City	The city you added to the **About** section of your timeline.	Downloaded Info
Date of Birth	The date you added to Birthday in the **About** section of your timeline.	Downloaded Info
Deleted Friends	People you've removed as friends.	Downloaded Info
Education	Any information you added to Education field in the About section of your timeline.	Downloaded Info
Emails	Email addresses added to your account (even those you may have removed).	Downloaded Info
Events	Events you've joined or been invited to.	Activity Log Downloaded Info
Facial Recognition Data[2]	A unique number based on a comparison of the photos you're tagged in. We use this data to help others tag you in photos.	Downloaded Info
Family	Friends you've indicated are family members.	Downloaded Info
Favorite Quotes	Information you've added to the Favorite Quotes section of the **About** section of your timeline.	Downloaded Info
Followers	A list of people who follow you.	Downloaded Info

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[2] As is explained in our Response to Complaint 9, this category of data is not held in respect of EU Users.

Following	A list of people you follow.	Activity Log
Friend Requests	Pending sent and received friend requests.	Downloaded Info
Friends	A list of your friends.	Downloaded Info
Gender	The gender you added to the **About** section of your timeline.	Downloaded Info
Groups	A list of groups you belong to on Facebook.	Downloaded Info
Hidden from News Feed	Any friends, apps or pages you've hidden from your News Feed.	Downloaded Info
Hometown	The place you added to hometown in the **About** section of your timeline.	Downloaded Info
IP Addresses	A list of IP addresses where you've logged into your Facebook account (won't include all historical IP addresses as they are deleted according to a retention schedule).	Downloaded Info
Last Location	The last location associated with an update.	Activity Log
Likes on Others' Posts	Posts, photos or other content you've liked.	Activity Log
Likes on Your Posts from others	Likes on your own posts, photos or other content.	Activity Log
Likes on Other Sites	Likes you've made on sites off of Facebook.	Activity Log
Linked Accounts	A list of the accounts you've linked to your Facebook account	Account Settings
Locale	The language you've selected to use Facebook in.	Downloaded Info
Logins	IP address, date and time associated with logins to your Facebook account.	Downloaded Info
Logouts	IP address, date and time associated with logouts from your Facebook account.	Downloaded Info
Messages	Messages you've sent and received on Facebook. Note, if you've deleted a message it won't be included in your download as it has been deleted from your account.	Downloaded Info

Name	The name on your Facebook account.	Downloaded Info
Name Changes	Any changes you've made to the original name you used when you signed up for Facebook.	Downloaded Info
Networks	Networks (affiliations with schools or workplaces) that you belong to on Facebook.	Downloaded Info
Notes	Any notes you've written and published to your account.	Activity Log
Notification Settings	A list of all your notification preferences and whether you have email and text enabled or disabled for each.	Downloaded Info
Pages You Admin	A list of pages you admin.	Downloaded Info
Pending Friend Requests	Pending sent and received friend requests.	Downloaded Info
Phone Numbers	Mobile phone numbers you've added to your account, including verified mobile numbers you've added for security purposes.	Downloaded Info
Photos	Photos you've uploaded to your account.	Downloaded Info
Photos Metadata	Any metadata that is transmitted with your uploaded photos.	Downloaded Info
Physical Tokens	Badges you've added to your account.	Downloaded Info
Pokes	A list of who's poked you and who you've poked. Poke content from our mobile poke app is not included because it's only available for a brief period of time. After the recipient has viewed the content it's permanently deleted from our systems.	Downloaded Info
Political Views	Any information you added to Political Views in the About section of timeline.	Downloaded Info
Posts by You	Anything you posted to your own timeline, like photos, videos and status updates.	Activity Log
Posts by Others	Anything posted to your timeline by someone else, like wall posts or links shared on your timeline by friends.	Activity Log Downloaded Info
Posts to Others	Anything you posted to someone else's timeline, like photos, videos and status updates.	Activity Log

Privacy Settings	Your current privacy settings (former settings are not saved).	Privacy Settings
Recent Activities	Actions you've taken and interactions you've recently had.	Activity Log Downloaded Info
Registration Date	The date you joined Facebook.	Activity Log Downloaded Info
Religious Views	The current information you added to Religious Views in the **About** section of your timeline.	Downloaded Info
Removed Friends	People you've removed as friends.	Activity Log Downloaded Info
Screen Names	The screen names you've added to your account, and the service they're associated with. You can also see if they're hidden or visible on your account.	Downloaded Info
Searches	Searches you've made on Facebook.	Activity Log
Shares	Content (ex: a news article) you've shared with others on Facebook using the **Share** button or link.	Activity Log
Spoken Languages	The languages you added to Spoken Languages in the **About** section of your timeline.	Downloaded Info
Status Updates	Any status updates you've posted.	Activity Log Downloaded Info
Work	Any current information you've added to Work in the About section of your timeline.	Downloaded Info
Vanity URL	Your Facebook URL (ex: username or vanity for your account).	Visible in your timeline URL
Videos	Videos you've posted to your timeline.	Activity Log Downloaded Info

1.6. How can non-users make a subject access request against FB-I?

Non-users, or users who have lost access to their account, can make a subject access request against FB-I by using the form provided on the website. See screenshot below.
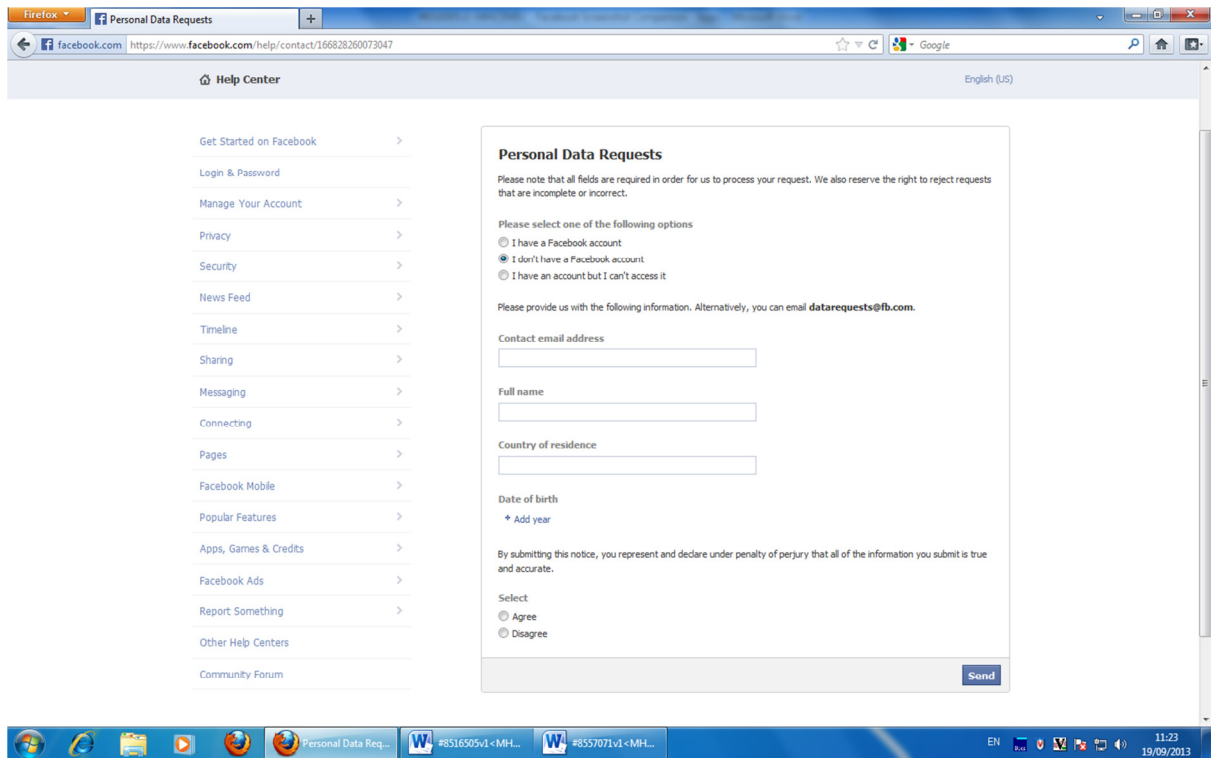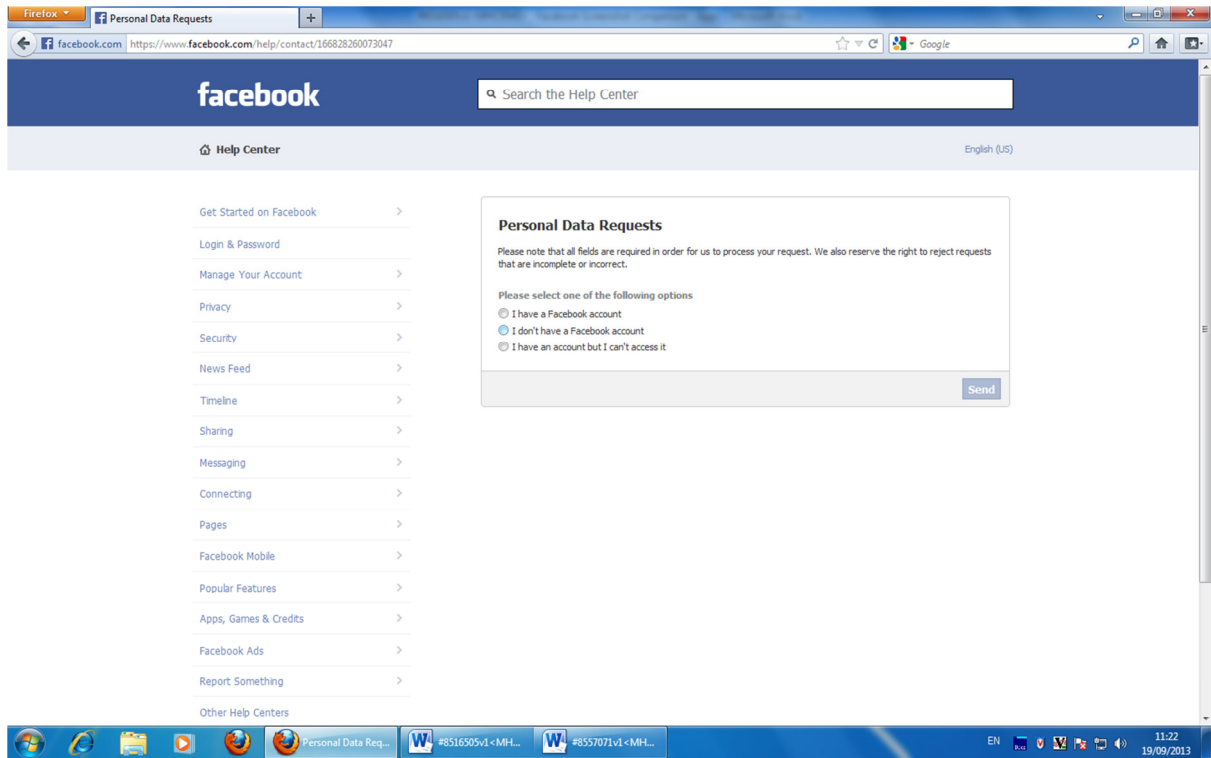
1.7.   Data Use Policy

The Data Use Policy informs users how they can make a subject access request against FB-I:

Access requests

You can access and correct most of your personal data stored by Facebook by logging into your account and viewing your timeline and activity log. You can also download a copy of your personal data by visiting your "[Account Settings](#)", clicking on "Download a copy of your Facebook data" and then clicking on the link for your expanded archive. Learn more at:
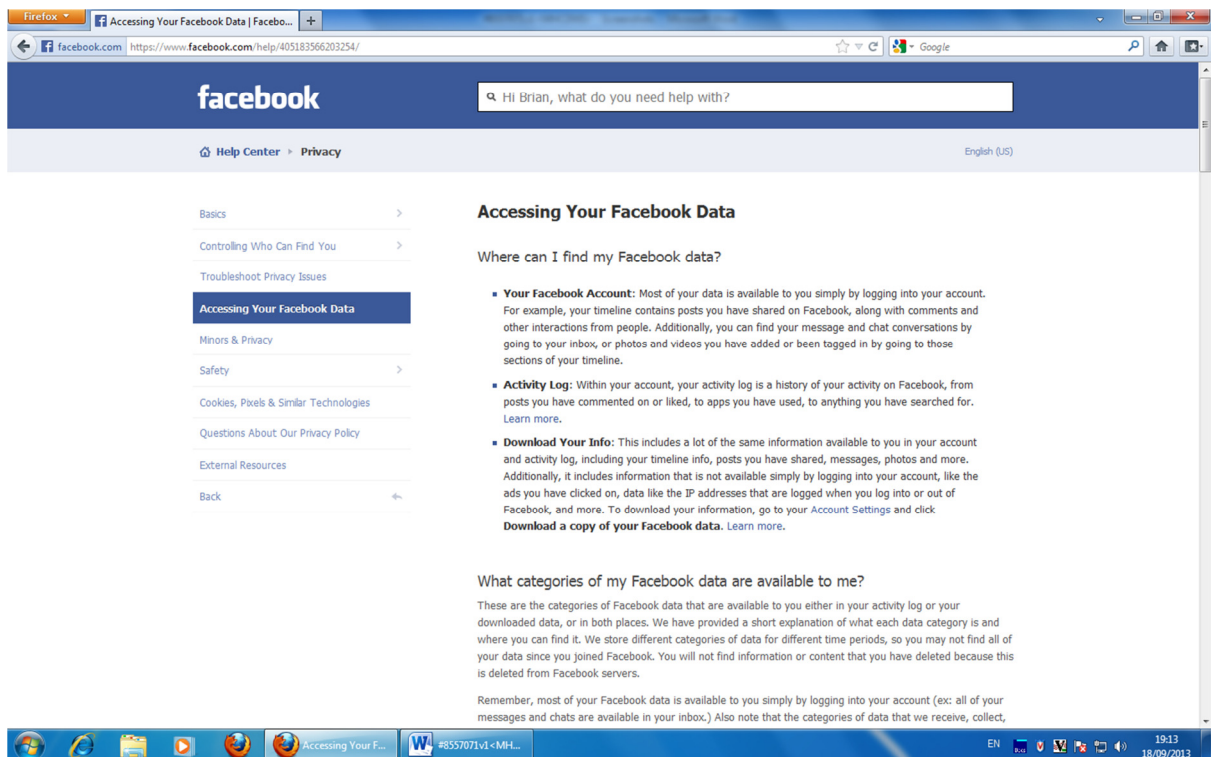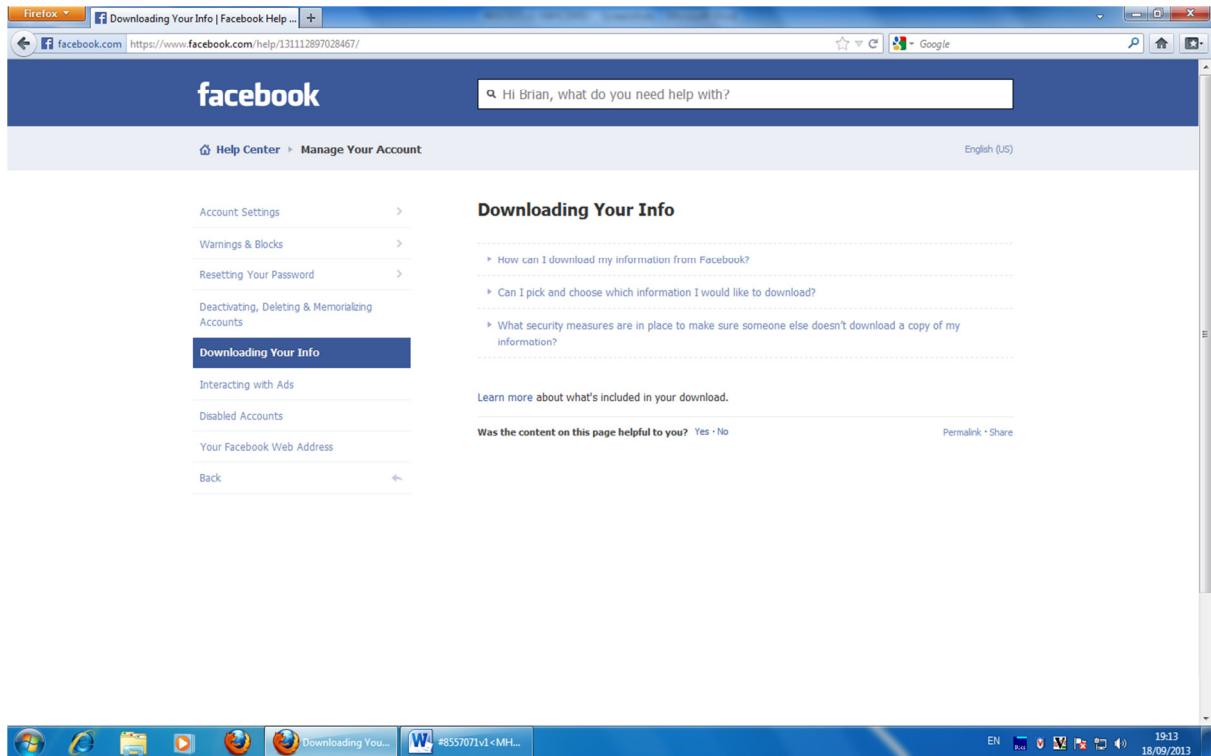*https://www.facebook.com/help/?faq=226281544049399*

The above link brings a user to the following page:
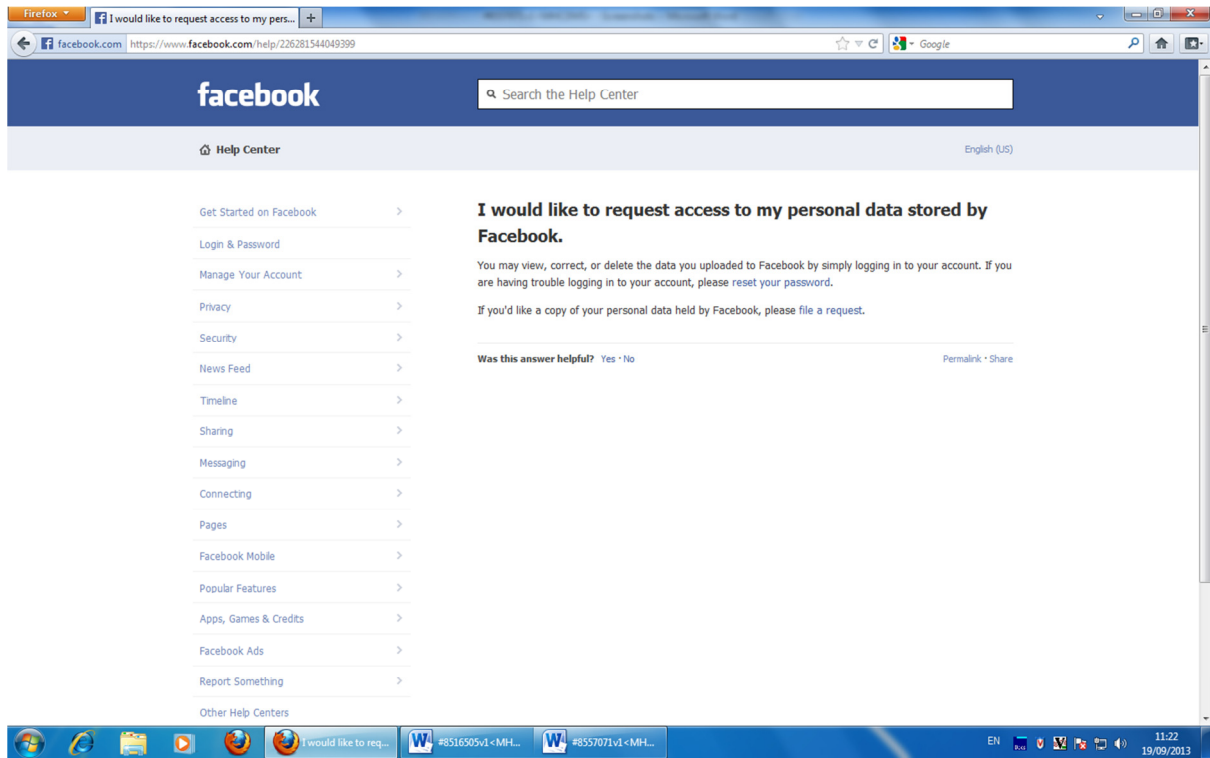
1.8. Help Center

The Help Center provides further details about how users can access their personal data. See screenshots below:

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2.   FACTUAL ASSERTIONS MADE BY COMPLAINANT

In the Original Complaint, the Complainant alleges the following, which is reiterated in the Request for Formal Decision:

a)   *FB-I fails to meet its obligation to provide personal data in response to a subject access request.*

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This allegation is unfounded. As the DPC confirmed during the audit, FB-I provides its users with proper access to their personal data.

3. AUDIT PROCESS

3.1. Introduction

FB-I's current approach to subject access requests emerged out of FB-I's engagement with the DPC during the audit. Following extensive engagement between the DPC and FB-I, FB-I agreed to develop its current innovative approach to subject access requests. In the 2012 Audit Report, the DPC confirmed that, subject to adding photo metadata to DYI (which has now been done), FB-I was lawfully meeting its subject access request obligations.

3.1.1. 2011 Audit Report

In the 2011 Audit Report, the DPC set out its understanding of the Complainant's allegations in the following terms:

> *Complaint 10 – Access Requests stated that the data subject lodged a subject access request with FB-I but that the access request resulted in only limited data being provided. It might be noted in this context that FB-I supplied over a thousand pages of data in response to the access request.*
>
> *The complaint outlined 19 categories where FB-I did not provide personal information that it is contended should have been included. The 19 categories cover information in relation to the following:*
>
> - *Content posted on other's pages*
> - *Videos posted*
> - *Use of 'like' button*
> - *Browser type*
> - *Interaction with advertisements*
> - *Conversation tracking*
> - *Indicates a friendship*
> - *Pictures where tag removed*
> - *Tracking information on use of other websites*
> - *Searches made*
> - *Settings*
> - *Click flows*
> - *Use of 'friend finder'*
> - *Outcomes from matching, face recognition and ad targeting processing*
> - *Use of pictures by face recognition tool*
> - *Data gathered from another's 'synchronisation'*
> - *Relationship with other users*
> - *Reaction of other users to content posted*
> - *'Invitations' sent and received*
>
> *The complaint in this area generated a significant amount of interest and as a consequence, the complainant put in place an easy to use template for any person wishing to exercise their right of access to personal data held by FB-I. This resulted in FB-I receiving in excess of 40,000 subject access requests within a matter of weeks. This number of access requests sent to one data controller within this period of time is without precedent in the experience of this Office.*[3]

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[3] Page 63 of the 2011 Audit Report

In light of this complaint, the DPC first noted that FB-I accepted its obligation to provide users with access to their personal data:

> *The first issue to be established regarding an organisation's legal responsibility to provide access to personal data is whether the Acts apply to that organisation. As outlined earlier in this report FB-I does not in any way dispute its obligation to comply with the Data Protection Acts 1988 & 2003 by virtue of the establishment and operation of FB-I in Ireland. It therefore is seeking to fully comply with all access requests made by users and non-users where FB-I is the data controller for such information.*[4]

The 2011 Audit Report then noted the engagement that had taken place between FB-I and the DPC with respect to the development of the DYI tool:

> *In advance of the onsite element of the audit, this Office therefore entered into immediate and detailed discussions with FB-I as to the most appropriate means of providing access to personal data of requesters within as short a time-frame as possible. FB-I had previously devoted extensive engineering time to developing a download tool that would provide access to data that was relatively easy to retrieve and provide. It was agreed that discussions in relation to other types of data held by FB-I would take place during the audit itself and that, once considered, these other categories of data would be added to the download tool or made otherwise available to users.*[5]

The 2011 Audit Report further specifically noted that the DPC had full access to personal data held by FB-I and that the DPC considered the extent to which such data had to be disclosed in response to a subject access request:

> *A significant proportion of the audit was therefore focused on establishing the extent of personal data held by FB-I and whether any of the limited exemptions contained within the Data Protection Acts could be validly claimed by FB-I. We are satisfied that we had full access to all data relating to users and non-users held by FB-I.*[6]

The 2011 Audit Report further set out the DPC's view of FB-I's legal obligations with respect to subject access requests:

> *The position of this Office is that, if identifiable personal data is held in relation to a user or nonuser, it must be provided in response to an access request within 40 days, in the absence of a statutory exemption. While the complexity and scale of Facebook is an important consideration, it does not, by itself, provide a ground for non-compliance with an access request. This is accepted by FB-I which has approached the obligation to supply personal data in response to access requests in an open and constructive manner. From the perspective of this Office the key requirement in response to an access request is to ensure that a user has access to their personal data. Therefore, either the data must be available on the requester's profile page, their activity log, which is a feature of the new user Timeline, or via the download tool. From a transparency perspective, it is desirable that most, and ideally all, of a user's data should be available without having to make a formal request. FB-I therefore will be implementing a number of enhancements to the activity log to provide users with access to and control over information about them.*[7]

The 2011 Audit Report then set out the various categories of data which would be made available by FB-I and where they could be accessed by users. The DPC went on to note that certain items of information would not be provided:

> *There are very limited categories of information which will not be supplied. As an example, information in relation to a person's passwords, reset passwords, credit card numbers, and verification queries and answers will not be supplied as this information is known to that user and providing it in the activity log or download tool would create a security risk for users if their accounts were breached or if their downloaded data were accessed by a third party. The amount and type of data that may fall into a category that will not be supplied may be affected by any data retention policies or practices as described elsewhere in this Report.*

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[4] Pages 63 to 64 of the 2011 Audit Report
[5] Page 64 of the 2011 Audit Report
[6] Page 64 of the 2011 Audit Report
[7] Page 64 of the 2011 Audit Report

Another category of information relates to abuse reports or employee notes and emails concerning users or former users. From a system architecture perspective it is accepted that it is not immediately possible to supply such information via the means outlined above. There is also a possibility that internal communications may include information, such as staff names and email address and other third-party personal data, that falls outside the scope of a subject access request, and requires significant manual redaction of the communication. Consequently, although FB-I will still accept subject access requests in connection to such types of internal data, FB-I may establish separate and special processes for making a request for such communications.[8]

Finally, the 2011 Audit Report noted that, as FB-I does not create profiles of non-users or relate social plug-in data to users, there was no such personal data that would need to be disclosed in response to a subject access request:

As indicated elsewhere in this report, this Office conducted a thorough analysis of the use of information gathered from external websites via the social plug-in. This Office is satisfied (for the reasons stated elsewhere) that such information is not associated with the user or used in any way to build a profile of that user. Neither is there any profile formed of non-users which could be attributed to a person on becoming a user.

A number of recommendations are outlined to ensure that this position is maintained, but the issue of access does not arise for such data at this time as it is not related to the user.[9]

FB-I responded to the DPC's views on this issue in the following terms:

FB-I takes transparency very seriously. We believe the level of transparency we currently provide is substantially greater than any global internet service that is operating at our scale, or even at a scale an order of magnitude smaller than ours. We believe that we have innovated extraordinary new tools to help users review and understand the personal data in our possession and we are committed to continue to innovate to remain transparency leaders. We are dedicated to provide our users the best experience on the platform and the easiest way to exercise their rights. We invest significant engineering time and resources to develop best in class tools for users to easily access and manage their own data.

First and foremost, it is important to recognize that Facebook users can easily review, correct, delete and download the vast majority of their personal data simply by logging into their accounts. FB-I seeks to provide our users with upfront access to as much of their personal data as possible, without requiring them to make formal subject access requests. Easy access by users to their personal data is something we have designed into the Facebook service. Our Data Use Policy explains the categories of data being processed, the purposes of the processing and the categories of recipients to whom the data are or may be disclosed.

Second, we have recently created an innovative tool ("Download Your Information") which allows users to download most of the content they have previously uploaded onto Facebook in a single file.

Finally, FB-I has recently announced the addition of a new transparency tool by creating a soon-to-be-launched feature called "Activity Log." The Activity Log will provide users with even more of their personal data simply by logging into their accounts.

We recognize, however, that we are innovating in an area where there is little precedent or practice. The complex issues around subject access requests are particularly challenging for FB-I. Our wide user base means that we could, theoretically, be subject to hundreds of millions of such requests. In addition, our platform is distributed and decentralised in nature, with no one single "file" containing the totality of each user's personal data.

During the course of the audit, FB-I has been continually revising and refining its subject access request process to make it easier to use. We have created a new, dedicated page where any user or non-user can make a subject access request.

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[8] Page 66 of the 2011 Audit Report
[9] Page 66 of the 2011 Audit Report

Previously, for users who required personal information which may not be available on the site, we had a specific contact form that could be used to request their personal data. Given the volume of requests we received over the course of one month, we found it disproportionately burdensome to continue to respond to access requests manually. We have therefore been working towards an automated, self-service option, which will satisfy our users.

FB-I is committed to provide data subjects with the personal data we hold and to make such data easily accessible on our site through a variety of means: the download tool, user-accessible database, the new "Activity Log", and the user's own account. FB-I has agreed with the DPC to provide the additional categories of data listed by the DPC above. FB-I emphasizes, however, that to make all of this personal data available to users will take significant engineering efforts and resources. FB-I has agreed to provide additional data in the download tool in January and to make substantial additional fields of data accessible no later than the end of the first quarter 2012. The remaining data will be provided via an enhanced activity log within Timeline as soon as the necessary engineering work which is ongoing is completed. We will keep in ongoing contact with the DPC to ensure this timescale is met.[10]

The 2011 Audit Report concluded its assessment of FB-I's approach to subject access requests in the following terms:

Significant progress has taken place in terms of FB-I's understanding of the need to comply with requests for data in a timely and comprehensive manner. Importantly, the audit however has established an important principle of transparency as follows:

> *Transparency is a core value of FB-I. FB-I believes that our users are entitled to have easy and effective access to their personal information. To achieve this goal, we shall endeavour not to unnecessarily use or retain the personal data of users where such data cannot be made easily available to the user.*

We are satisfied that FB-I is working actively to achieve this objective and therefore recommend that it maintains the principle of transparency outlined above. The above matters and the response of FB-I to individual requests for personal data will be kept under full review by this Office specifically to ensure that the timescales outlined for the provision of data are met. This issue will be revisited in the context of specific complaints received and the audit review to be conducted in July 2012.[11]

In light of the above conclusion, the DPC made the following recommendation:

If identifiable personal data is held in relation to a user or non-user, it must be provided in response to an access request within 40 days, in the absence of a statutory exemption.[12]

3.1.2. Update Report

In the Update Report, FB-I noted the progress it had made in providing users with easy access to their personal data. The relevant provisions of the Update Report are extracted below for reference:

Chapter 4 – Access Requests[13]

The right for an individual to access personal data held by a data controller established in the EU is a basic right enshrined in the Data Protection Acts and the EU Data Protection Directive. The right of access grants a means for an individual to establish (subject to limited restrictions) within 40 days what data is held about them and to seek correction or deletion where this may be necessary.

In the Report of Audit, the DPC expressed that "... the key requirement in response to an access request is to ensure that a user has access to their personal data. Therefore, either the data must be available on the requester's

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[10] Pages 66 to 67 of the 2011 Audit Report
[11] Page 68 of the 2011 Audit Report
[12] Page 68 of the 2011 Audit Report
[13] Pages 32 to 38 of the Update Report

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profile page, their activity log, which is a feature of the new user Timeline, or via the download tool. From a transparency perspective, it is desirable that most, and ideally all, of a user's data should be available without having to make a formal request. FB-I therefore will be implementing a number of enhancements to the activity log to provide users with access to and control over information about them."

As FB-I noted in its response in the Report of Audit, "[t]he complex issues around subject access requests are particularly challenging for FB-I. Our wide user base means that we could, theoretically, be subject to hundreds of millions of such requests. In addition, our platform is distributed and decentralised in nature, with no one single "file" containing the totality of each user's personal data."

During the course of the audit, FB-I has been continually revising and refining its subject access request process to make it easier to use. We have created a new, dedicated page where any user or non-user can make a subject access request.

FB-I has approached its responsibility to ensure full access to data for all its users very seriously and has worked diligently at building a self-service tool to supplement the existing mechanisms available to users to access their data. FB-I's commitment to transparency, access, and control can be seen by its extraordinary efforts to make users' personal data easily available to users rather than requiring users to correspond with FB-I to make a request and wait up to 40 days for a response. FB-I decided that where it was possible to surface user data directly in users' accounts via the timeline or Activity Log, it would do so and thereby give users control over individually deleting the data in most cases.

4.1 User Activity Log
Facebook's Activity Log provides unprecedented, industry-leading transparency into the historical actions taken by the user on the site. The Activity Log can be seen only by the user, and from the log itself, users can control the visibility of each action —whether it is visible on the user's timeline or not —and can delete almost every item on a per-item basis. Categories of action can be isolated so that a user can search only his or her comments on others' posts for example. See screenshot below:
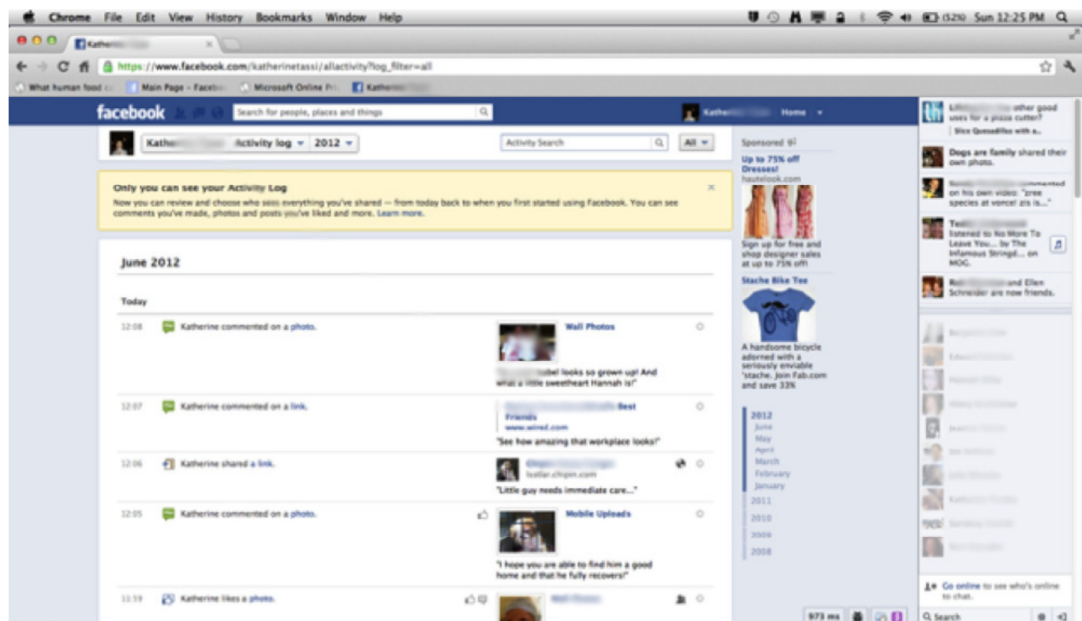
The "learn more" link takes the user to extensive help center information on Activity Log. See https://www.facebook.com/help/activitylog.
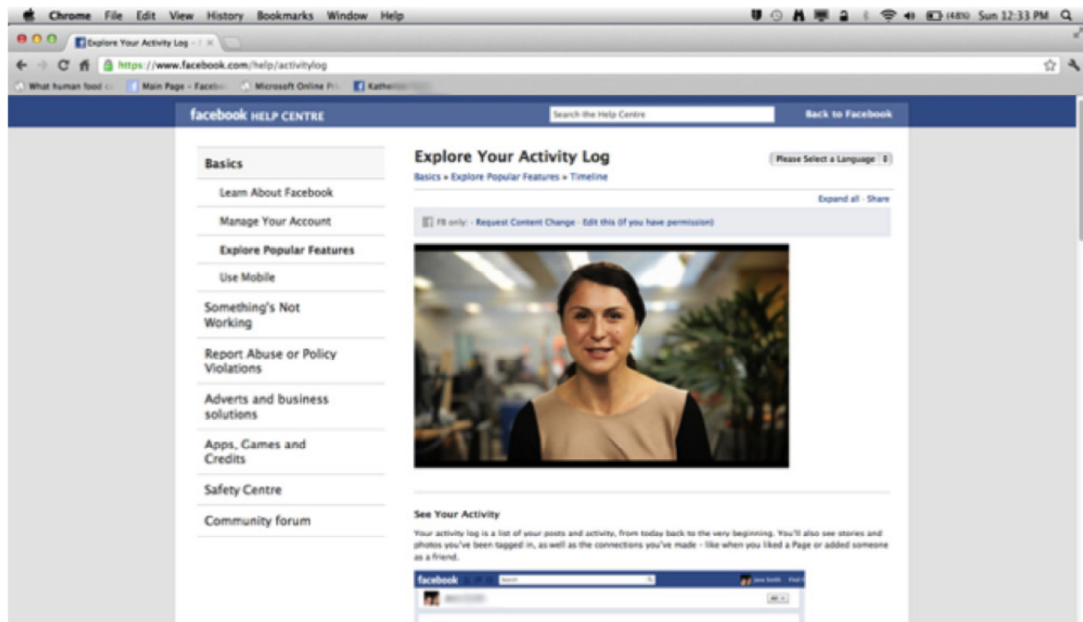
4.2 Expanded Archive[14]

For a large amount of data that is perhaps of somewhat less interest to users on a regular basis, FB-I engineered a second download tool, called "expanded archive", from which users can access largely historical data. The previously existing download tool still provides users with a vast amount of data, some of which is supplied in other places as well. FB-I spent the six months between the publication of the Report of Audit and July 2012 examining every piece of user personal data it holds and figuring out how to make it available to users. The project entailed enormous engineering efforts and resulted in an unprecedented amount of data being easily available to users. FB-I is not aware of any other web service that provides individuals access to their data as comprehensively and easily as it does.

4.3 Data Available

The DPC in the Report of Audit made reference to the complaint of the organization "Europe v. Facebook" regarding 19 supposed categories of data that FB-I did not make available to users. FB-I and the DPC examined each of these supposed categories of data throughout the audit process. The following is a list of the categories and the outcome (many categories of data are available in multiple places):

- *Content posted on other's pages: available in Activity Log*

- *Videos posted: Available in Activity Log and on timeline*

- *Use of 'like' button: Available in timeline and in Activity Log*

- *Browser type: Available in Expanded Archive*

- *Interaction with advertisements: in Expanded Archive*

- *Conversion tracking: as interpreted, such data is kept in aggregate form only*

- *Indicates a friendship: unclear as to what this means*

- *Pictures where tag removed: in Activity Log*

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[14] Expanded Archive has since been merged with DYI

- *Tracking information on use of other websites: Facebook does not track users on other websites; insofar as FB-I receives data via social plugins, such data is anonymized within 90 days; during the 90-day period, it is inaccessible for per-user extraction of data.*

- *Searches made: will be added to Activity Log or Expanded Archive*

- *Settings: existing setting in user's account; Facebook does not store historical settings*

- *Click flows: unclear what this means, but insofar as it means ad clicks, unavailable due to inaccessibility of storage location for per user extractions*

- *Use of 'friend finder': in Expanded Archive*

- *Outcomes from matching, face recognition and ad-targeting processing: underlying algorithm calls for intellectual property/trade secret information; facial composite is in Activity Log*

- *Use of pictures by face recognition tool: facial composite is in Activity Log*

- *Data gathered from another's 'synchronisation': as far as understood, this is other users' data stored in other users' accounts*

- *Relationship with other users: in Expanded Archive and on timeline*

- *Reaction of other users to content posted: comments on user's posts in Activity Log*

- *'Invitations' sent and received: in Activity Log, in user's account*

In total, the personal data available to users is described, along with where it can be found, in the following chart, which is available to users at https://www.facebook. com/help/?page=116481065103985. The Help Center also contains FAQs providing information about downloading and accessing one's personal data on Facebook.

This is the data users can find, a short explanation of what it is and where they can find it (downloaded info, expanded archive or activity log). FB-I stores different types of data for different time periods, so FB-I may not have all of a user's data since he or she joined Facebook. FB-I also does not surface in the downloaded data certain data, like passwords, for security reasons or transitory scores that help with troubleshooting, assessing site integrity, risk, or violations of our Terms.

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4.4 Responses to Existing Access Requests
As the DPC noted in the Report of Audit, FB-I received over 40,000 access requests during a very short period of time prior to the audit. FB-I worked hard to notify all of those individuals who had made access requests of:1) the agreement FB-I reached with the DPC regarding access requests as a result of the audit, and 2) when FB-I added further categories of data to the download tool.

3.1.3.   2012 Technical Audit Report

The extent to which FB-I could process a user's browsing history was specifically considered in the 2012 Technical Audit Report:

2.1 Accessibility of User Browsing Activity Log Entries
The question of how difficult would it be for Facebook to examine an individual user's browsing activity log entries from Hive (c.f. Section 1.9.2.2) was considered.

User browsing activity log entry data is stored by Facebook in a storage area known as hive, described above in Section 1.9.2.2. As mentioned above, data stored in hive is organised logically as tables that are split into partitions, mostly by date. Partitions are then divided out among multiple physical nodes within hive. For redundancy, three copies of data are stored.

The fact that the data is stored in hive organised by date means that there is no efficient way to extract all log entries corresponding to a particular user account. To achieve this goal would involve searching all partitions for all dates from the current date back to the inception of Facebook's hive for a particular user ID.

Additionally, FB-I only stores logged out and non-user social plugin impression logs for ten days. The deletion of logged out and non-user social plugin impression logs after ten days has been verified by code review. The logged in social plugin impression logs are deleted after 60 days and this has also been verified by code review.[15]

In light of this assessment, the 2012 Technical Audit Report concluded:

Considering the volume of data stored in hive, this search is considered computationally infeasible even for one single user account, let alone for wholesale reconstruction of user activity.[16]

3.1.4.   2012 Audit Report

In the 2012 Audit Report, the DPC confirmed FB-I's continued acceptance of its subject access request obligations:

In our December Audit Report this Office indicated as follows: "The right for an individual to access personal data held by a data controller established in the EU is a basic right enshrined in the Data Protection Acts and the EU Data Protection Directive. The right of access grants a means for an individual to establish (subject to limited restrictions) within 40 days what data is held about them and to seek correction or deletion where this may be necessary."

It is a demonstration of FB-I's acceptance and adherence to this requirement that in Chapter 4 of its Update Report to this Office it has fully restated this position.[17]

The 2012 Audit Report went on to consider FB-I's approach to subject access requests, and to confirm that this approach was satisfactory:

Recommendation: If identifiable personal data is held in relation to a user or non-user, it must be provided in response to an access request within 40 days, in the absence of a statutory exemption
This is an issue which has captured significant attention due to the some 40,000 access requests received by FB-I over a very short period in October 2011. FB-I continued to receive access requests in the intervening period but at a much lower level.

As indicated in the December Report, the receipt of such a volume of access requests would provide a difficulty for any organisation to provide the personal data held on the requester within 40 days of receipt. FB-I however was in a position that many organisations would not be in whereby it was able to draw upon its engineering resources and in conjunction with this Office identified a suite of avenues to ensure that requesters received their personal data. The agreed upon goal was that wherever possible the data in question should be available to the user without having to make a formal access request. Therefore personal data is available to individual members of FB-I through (i) their own account, (ii) their Activity Log which provides a detailed description and ability to interact and control all their actions on the site, (iii) a download tool which provides additional data which users are typically interested in and (iv) what is termed an expanded archive that provides more detailed

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[15] Page 52 of the 2012 Technical Audit Report
[16] Page 52 of the 2012 Technical Audit Report
[17] Pages 20 and 21 of the 2011 Audit Report

information which many users are not seeking to access. FB-I has indicated that it has made the data available through various channels due, in part, to what it terms limitations in the platform infrastructure that underlies the operation of the download tools. FB-I is therefore not able to make every piece of data available by means of the download tools. As this issue only crystallised after the on-site visit we were not in a position to fully assess it. In any case, in terms of access to personal data, as long as the data is available to the user in their account, their Activity log, the download tool or the expanded archive we are satisfied that their right of access is met.[18]

The 2012 Audit Report then noted that the relevant notices on the FB-I site (as described in Section 1 of this Response) had been developed in consultation with the DPC.[19]

The DPC further confirmed that its assessment of FB-I's approach to subject access requests was based on an extensive analysis of the various categories of personal data held by FB-I:

This Office once again during the on-site review sought to ensure that any personal data which was processed by FB-I and which was held in a format that allowed identification of an individual or which related to an individual user was retrievable in response to an access request would be made available to users through the various avenues outlined above. In doing so we examined FB-I's various holdings of data as outlined in the updated Technical Analysis Report and in response to specific complaints received accessed individual user account information and examined all personal data held and accessible in relation to specific individuals. At the time of writing the only data which this Office considers to be personal data which is processed by FB-I and not available to individuals is the metadata associated with uploaded photographs (see section 2.2 of the Technical Analysis Report). This material will be added to the Expanded Archive by the end of October. FB-I also holds log data in the logging database Hive, which may include personal data; however, this data cannot be efficiently retrieved per user.[20]

In light of the above, the DPC concluded as follows:

We are satisfied that FB-I has made the efforts envisaged by the Data Protection Acts to ensure that personal data held in relation to individual users is made available to them within the statutory time period. This, of course, is an ongoing obligation as new services and features are introduced on the site and therefore we expect that FB-I will continue to ensure that this obligation is met in such circumstances and that allowing access to all ensuing personal data is written into the relevant product specification in all cases. With the exception of the photograph metadata we are satisfied that all uses are now receiving access to their personal data held by FB-I in a manner that complies fully with the obligations placed under FB-I by Sections 3 and 4 of the Data Protection Acts.[21]

For the avoidance of doubt, and as noted in Sections 1.1 and 1.5 above, photographic metadata has since been added to DYI.

4. **APPLICATION TO CURRENT COMPLAINT**

In light of the above, FB-I responds to the Complainant's assertion as follows:

> a) *FB-I fails to meet its obligation to provide personal data in response to a subject access request.*

This allegation is unfounded. FB-I's approach to subject access request was extensively examined during the audit. Following this process, the DPC explicitly confirmed – subject to the addition of photographic metadata to DYI – that FB-I complies with sections 3 and 4 of the Data Protection Acts. FB-I continues to use personal data access as an important product design principle.

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[18] Page 21 of the 2012 Audit Report
[19] Page 21 of the 2012 Audit Report
[20] Pages 21 to 22 of the 2012 Audit Report
[21] Page 22 of the 2012 Audit Report