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

Response to Complaint(s) Number: 14

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".**

1. BACKGROUND

1.1 How can users remove their friends?

Facebook users can connect with other users by adding them as their 'friends'. Facebook users can also remove friends at any point. FB-I retains a log of friends that a user has removed. A user can delete this record of their removed friends via their activity log.

1.2 Why does Facebook retain logs of removed friends?

FB-I does not use removed friend data to generate friend suggestions. FB-I uses this data to prevent friend requests and friend suggestions to the user who removed the person as a friend.

2. FACTUAL ASSERTIONS MADE BY COMPLAINANT

The Complainant objects to FB-I's retention policies with respect to removed friends. In the Original Complaint, the Complainant appears to make the following main factual allegation, which is reiterated in the Request for Formal Decision:

　　a)　*When Facebook users 'unfriend' or remove other users, specific information is retained by Facebook in respect of that Facebook friendship including the time and date of the removal of the friend and the identity of the Facebook user who removed a friend from their profile.*

In the Request for Formal Decision, the Complainant further alleges that:

　　b)　*The information logged when a Facebook user removes a friend is used by Facebook to make further friend suggestions to that user.*

3. AUDIT PROCESS

3.1 2011 Audit Report

In the 2011 Audit Report, the DPC set out its understanding of the Complainant's assertions on this point:

> *Complaint 14 - Removed Friends*
> *In addition to being able to 'find' and 'add' friends, Facebook users also have the option of removing friends from their friends list.*
>
> *The complainant stated that, in response to his access request to Facebook, he was provided with a list of people he had previously removed from his friends list. The complainant stated that he presumed these names to have been deleted at the time he used the remove option and that some of the names would have been removed up to 3 years ago.*
>
> *The complainant contended that there is no justification or user consent for the retention of this data and considered that Facebook was not transparent in terms of informing users on the retention of the information.[1]*

The DPC noted the reason why FB-I retained "removed friend" data:

> *FB-I uses removed friends data to ensure that the removed friend isn't surfaced as a friend suggestion to the user[2]*

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[1] Page 70 of the 2011 Audit Report
[2] Page 71 to 72 of the 2011 Audit Report

No further reference is made to 'removed friends' in the 2012 Audit Report, although many of the general findings and observations relating to 'Retention of Data' which are dealt with elsewhere in these Responses apply equally to the issue of removed friends.

The DPC did however conclude by recommending that:

> *User's should be provided with an ability to delete friend requests, pokes, tags, posts and messages and be able to in so far as is reasonably possible delete on a per item basis.[3]*

The retention of data in relation to 'removed friends' would ultimately be treated by FB-I in a manner similar to pokes, tags and posts.

3.2 Update Report

In the Update Report, FB-I set out its views on the necessity of retaining "removed friends" data, and the enhanced control which it would provide users in this space via the new activity log.

> ### 5.1 Retention of Log of "Removed" Data
>
> *In the Report of Audit, the DPC noted the specific complaints by the "Europe v. Facebook" group to the retention of data that appeared to the group to have no purpose after a user "removed" the data from his or her profile. Such data included: removed tags, removed friends, former groups, and deleted posts. FB-I's response noted that it saved removed pokes, tags, groups and friends for user experience reasons, but agreed that it could provide greater transparency to users and greater control where possible over the deletion of data.*
>
> *FB-I still regards it as a necessity to retain data related to actions users take, like removing tags and removing friends—this enables FB-I to prevent re-tagging after a user has expressed a desire not to be tagged and prevent the suggestion to a user to friend someone he or she has removed as a friend. However, FB-I now provides users with access to this stored data, as well as other actions, such as "unliking" a page the user previously liked. From the Activity Log, where this data is displayed, users can also delete the data if they so wish albeit in doing so they may be re-tagged in the content.[4]*

FB-I's willingness to provide its users with granular control over their settings and actions on Facebook was shown by the development of the activity log feature, which was described in the following manner in the Update Report:

> *The transparency and control offered by Facebook's Activity Log feature is a major accomplishment. This is one of the most innovative and unparalled offerings in the social media industry and clearly demonstrates FB-I's commitment to integrating transparency and control over data into the Facebook experience ... the activity log provides users the ability to see in one place the visibility setting of their activity and the objects they interacted with, as well as the ability to change the visibility, remove from timeline, or delete the activity.[5]*

3.3 2012 Audit Report

In the 2012 Audit Report, the DPC noted the increase in user control which had been introduced as a result of the activity log feature:

> *Following extensive engagement, this Office and FB-I agreed that user control in this area could be extended so as to enable users to delete such items on a per-item basis. Such deletion may remove some of the protections and functionality which retaining this information provided to an individual user. From the activity log, where this data is displayed, users can now delete the data if they so wish. In this way FB-I has also clarified to users at the*

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[3] Page 78 of the 2011 Audit Report
[4] Pages 39 and 40 of the Update Report
[5] Page 17 of the Update Report

time they are taking an action whether that action will cause the item to be deleted or removed. Where it is only removed there is an ability to subsequently delete it via the Activity Log as described above.[6]

These comments were intended to cover removed friends and the related and new deletion functionality for removed friends.

3.4   Removed friends – conclusion

While the issue of 'removed friends' was not directly addressed in the 2012 Audit Report, no concern was expressed by the DPC in relation to that aspect of Facebook and the DPC appeared to be satisfied that the increased transparency provided to users via the activity log resolved any concerns in this respect.

4.   APPLICATION TO CURRENT COMPLAINT

In light of the above, and in particular the introduction of the activity log feature to Facebook, FB-I responds as follows to the Complainant's allegations:

> a)   *When Facebook users 'unfriend' or remove other users, specific information is retained by Facebook in respect of that Facebook friendship including the time and date of the removal of the friend and the identity of the Facebook user who removed a friend from their profile.*

As noted above in Section 3.2, FB-I now offers users the ability to delete all information in relation to deleted or removed friends through the activity log. FB-I would however highlight that deletion of this data may prevent FB-I from offering users some of the protections and functionality which FB-I can offer its users by retaining the information. The Complainant has failed to recognise FB-I's new deletion functionality in this complaint.

> b)   *That the information logged when a Facebook user removes a friend is used by Facebook to make further friend suggestions to that user.*

This assertion is simply incorrect; FB-I does not use 'removed friends' data in order to generate friend suggestions for users.

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[6] Page 23 of the 2012 Audit Report