



UNITED STATES OF AMERICA  
FEDERAL TRADE COMMISSION  
WASHINGTON, DC 20580

**Prepared Remarks of Chairman Joe Simons<sup>1</sup>**  
**Facebook Settlement Press Conference**  
**July 24, 2019**

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Good morning. I am pleased to announce that the FTC and the Department of Justice have reached a groundbreaking privacy settlement with Facebook. The settlement imposes a record-breaking \$5 billion penalty, includes strict new measures to change the way the company addresses consumers' privacy, and holds Facebook and its executives accountable for the decisions they make about privacy in the future.

This settlement is the result of an exhaustive investigation, which concluded that Facebook betrayed the trust of its users and deceived them about their ability to control their personal information.

The Commission's staff conducted an extremely thorough investigation for over a year that focused on *all* potential violations of the FTC's 2012 order and Section 5 of the FTC Act. Today's complaint alleges that Facebook violated the Commission's order in three ways. First, we allege that Facebook told consumers that they could limit the sharing of their information to groups—their "friends," for example—but, in fact, Facebook shared the information more broadly with app developers. Second, we allege that Facebook did not adequately assess and address privacy risks posed by third-party app developers. Third, we allege that Facebook misrepresented to certain users that they would have to "turn on" facial recognition technology,

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<sup>1</sup> These remarks reflect my own views. They do not necessarily reflect the views of the Commission or any other individual Commissioner.

but for millions of users, that technology was “on” by default. In addition to these alleged order violations, we also allege that Facebook violated the FTC Act when it told users it would collect their phone numbers to enable a security feature, but did not disclose that it also used those numbers for advertising purposes.

The settlement with Facebook is based on the recommendation of the FTC’s career enforcement staff, and includes three major components. First, Facebook must pay a \$5 billion civil penalty, one of the largest in corporate history. Second, the order subjects the company to new, expanded privacy requirements. Third, the order imposes significant structural reforms on how Facebook does business, including greater corporate accountability, more rigorous compliance monitoring, and increased transparency.

The magnitude of the \$5 billion civil penalty we have imposed is unprecedented in global privacy enforcement. This penalty is more than 200 times greater than the largest privacy penalty previously imposed in the United States, and is more than 20 times greater than the largest fine imposed in Europe pursuant to the General Data Protection Regulation. Five billion dollars is approximately 9% of Facebook’s 2018 revenue, and approximately 23% of its 2018 profit. This penalty is also one of the largest civil penalties—for any type of conduct—in U.S. history, alongside cases involving enormous environmental damage and massive financial fraud. The enormity of this penalty resets the baseline for privacy cases and serves as an important deterrent for future order violations.

Even though today’s \$5 billion penalty is historic, it is just one piece of the relief achieved in this settlement. The new order against Facebook also imposes significant conduct relief. For example, the order requires greater oversight of third-party app developers, including a requirement to terminate developers that fail to certify compliance with Facebook’s platform

policies. The order also breaks new ground with respect to biometric information: the order requires Facebook to get consumers' opt-in consent before using or sharing facial recognition information in ways that exceed prior disclosures to consumers.

Finally, the order imposes a sea change in the way Facebook addresses consumers' privacy with a belt-and-suspenders approach to compliance. The new privacy regime requires several different mandatory flows of information through five overlapping channels of compliance, so that if there is breakdown in one or more channels, another channel can identify the problem and fix it. This approach dramatically increases the likelihood that Facebook will be compliant with the order; and, if there are any deviations, they likely will be detected and remedied quickly.

The compliance channels include a new independent Board of Directors committee focused solely on privacy. In addition, Mark Zuckerberg and the Designated Compliance Officers must each independently certify to the Commission that the company is in compliance with the order. False certifications would subject Mr. Zuckerberg and the Designated Compliance Officers to *personal* liability, including civil and criminal penalties. The final two compliance channels are completely outside of Facebook—the independent third-party assessor and the FTC, which will have the ability to approve and fire the independent third-party assessor.

To ensure these channels can exercise meaningful oversight, the order creates an unprecedented level of transparency for Facebook's privacy practices, by mandating four different information flows. The first information flow requires Facebook to review each new or modified product, service, or practice before it is implemented, and generate what are effectively privacy impact statements, which are available to each channel of compliance.

The second information flow consists of incident reports documenting when data of 500 or more users has been compromised, which Facebook must deliver to the Commission and the assessor within 30 days of the company's discovery of the incident.

The third information flow consists of the independent assessor's biennial assessments of Facebook's privacy program, which must be based on the assessor's independent fact gathering, sampling, and testing. The assessor must review the assessments with the privacy committee and submit them to the FTC.

The fourth and final information flow consists of Facebook management and the assessor briefing the privacy committee quarterly.

I would also like to point out that this settlement is all the more remarkable given the FTC's limited authority. We are a law enforcement agency without the authority to promulgate general privacy regulations. We are not acting pursuant to comprehensive privacy legislation like the GDPR in Europe. Our authority in this case comes from a 100-year-old statute that was never intended to deal with privacy issues like the ones we address today.

We were faced with two choices: (1) settle on excellent terms or (2) litigate for years and likely come away—from even a favorable court decision—with far less relief than we announce today. Would it have been nice to get even more? To get \$10 billion instead of \$5 billion for example? To get greater restrictions on how Facebook collects, uses, and shares data? To get a more limited release? To put Mark Zuckerberg's name in the complaint caption?

To the extent people object to our settlement because it does not have terms like these, we did not have those options. We cannot impose such things by our own fiat. Without a settlement, we would have to go to court. Our authority in these types of cases is quite limited, which is why we have encouraged Congress to consider federal privacy legislation. But for now,

the only real-world choice here was to take a historic settlement that provides immediate and important protection to American consumers, or wait for years to get far less relief. Not really much of a choice at all.

Finally, I would like to thank the Department of Justice for its invaluable collaboration on this matter, and of course, I would like to thank our own FTC Staff—Jim Kohm, Maneesha Mithal, Robin Moore, Reenah Kim, Linda Holleran Kopp, Aaron Alva, Tim Daniel, Shiva Koohi, and Dan Wood. Their tireless efforts on behalf of consumers led to the significant monetary and conduct relief I have described. Thank you.