



THE REPUBLIC OF UGANDA
IN THE MATTER OF THE DATA PROTECTION AND PRIVACY ACT, 2019

AND

IN THE MATTER OF THE DATA PROTECTION AND PRIVACY
REGULATIONS, 2021

AND

IN THE MATTER OF A COMPLAINT CONCERNING VIOLATION OF THE
ACT BY WHATSAPP LLC AND META PLATFORMS, INC

AND

IN THE MATTER FOR A REQUEST FOR AN INVESTIGATION INTO
WHATSAPP'S 2021 PRIVACY POLICY

BETWEEN

ADLEGAL INTERNATIONAL LIMITED COMPLAINANT

AND

WHATSAPP LLC.....1st RESPONDENT

META PLATFORMS, INC2nd RESPONDENT

FORM 11

COMPLAINT CONCERNING VIOLATION OF THE ACT

*(Brought under Section 31(1) of the Data Protection and Privacy Act, 2019 and
Regulation 41(2) of the Data Protection and Privacy Regulations, 2021)*

DETAILS OF PERSON MAKING COMPLAINT

Name:	Adlegal International Limited
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DETAILS OF COMPLAINT

Complaint is against:	WhatsApp LLC and Meta Platforms, Inc
Dealing:	Ugandan data subjects use the WhatsApp messaging platform.

1. DESCRIPTION OF THE PARTIES:

- 1.2 The Complainant, **Adlegal International Limited** is a consumer advocacy organization incorporated in Uganda, committed to promoting consumer protection, combating fraud, and addressing unfair competition through legal action. Its mission includes championing data protection and online consumer rights, ensuring the safety of consumers in digital transactions and the privacy of their personal data.
- 1.3 The First Respondent, **WhatsApp LLC** is a limited liability company based in the United States and a subsidiary of **Meta Platforms, Inc.** (formerly Facebook, Inc.). It operates **WhatsApp**, a globally used messaging, voice, and video communication service. WhatsApp provides end-to-end encrypted messaging, file sharing, and voice-over-IP (VoIP) calling services across mobile and web platforms.
- 1.4 The Second Respondent, **Meta Platforms, Inc.** (formerly **Facebook, Inc.**) is a multinational technology conglomerate headquartered in Menlo Park, California, USA. It owns and operates several major social media, communication, and technology platforms, including **Facebook, Instagram, WhatsApp, and Messenger**. Meta specializes in **online advertising, social networking, digital communication, and artificial intelligence (AI)**.

2. NATURE OF COMPLAINT:

2.1 Basis of the complaint:

- 2.1.1. The crux of the complaint is on WhatsApp LLC's violations of the **Data Protection and Privacy Act, 2019**, particularly its mandatory data sharing with Meta companies without **freely given, informed, and explicit consent** from Ugandan users. The 2021 Privacy Policy update removed the opt-out option, forcing users to accept extensive data sharing as a condition of continued use. WhatsApp collects excessive metadata beyond what is necessary for its core messaging services. Additionally, Ugandan users receive weaker privacy protections compared to European users under GDPR, creating **unfair and discriminatory treatment**. Furthermore, WhatsApp unlawfully transfers Ugandan users' data to *data centers in the United States* without proper authorization.
- 2.1.2. This complaint seeks regulatory intervention to enforce compliance with Uganda's data protection laws, ensure **equal privacy rights for Ugandan users**, and impose corrective measures against WhatsApp's unfair and exploitative data practices.

2.2 Jurisdiction and power of the Personal Data Protection Office to handle the instant complaint:

- 2.2.1 WhatsApp LLC falls within the regulatory scope of the **Data Protection and Privacy Act, 2019**, granting the Data Protection Office the authority to handle complaints related to its data processing activities concerning Ugandan users. WhatsApp LLC is a widely used instant messaging application in Uganda and it collects, processes, stores, and utilizes personal data belonging to Ugandan citizens.
- 2.2.2 The jurisdiction of the Data Protection Office in this complaint is geared under **Section 1(b) of the Data Protection and Privacy Act, 2019**, which provides that the Act applies to any entity located outside Uganda that collects, processes, holds, or uses personal data of Ugandan citizens.

3. FACTUAL BACKGROUND

3.1 Introduction of the new WhatsApp privacy policy of 2021

- 3.1.1 On **04.01.2021**, WhatsApp announced that it was updating the Terms of Service and Privacy Policy applicable to the use of WhatsApp's services.
- 3.1.2 From **05.01.2021**, existing WhatsApp users in Uganda started receiving screen notification from WhatsApp (User Notice) informing them about the new changes in WhatsApp's privacy policy and terms of service (2021 Update) for iOS and Android users respectively. *(Attached are the Screenshots of alerts, marked "A")*
- 3.1.3 The User Notice informed users about the "Key Updates," detailing data collection and mandatory sharing with other companies within the Facebook (now Meta) group, requiring acceptance of these terms to continue using the service beyond **February 8, 2021**, while allowing users to temporarily dismiss the recurring notice by selecting the "X" button on iOS or the "Not Now" button on Android until the deadline.
- 3.1.4 On **15.01.2021**, WhatsApp extended the deadline for users to review and accept the terms of the 2021 Update (from an initial deadline of 08.02.2021 to 15.05.2021).
- 3.1.5 WhatsApp also published FAQs and released a second in-app notice (beginning 19.02.2021) to provide users with information about the 2021 Update. The second User Notice gave users time till **15.05.2021** to review and consider the 2021 Update. The notice mandated the users to accept the update to continue using WhatsApp after 15.05.2021. *(Attached is the notice of extension of the deadline, marked "B")*

- 3.1.6 On **07.05.2021**, WhatsApp released an official statement on its website confirming that no account will be deleted, nor will users lose functionality because of the 2021 Update. Few extracts from this statement are as follows: “...*No one will have their accounts deleted or lose functionality of WhatsApp because of this update. The majority of users who have seen the update have already accepted. WhatsApp won’t delete your account if you don’t accept the update....*”
- 3.1.7 In the **2016 privacy policy**, WhatsApp allowed users to decide whether to share their data with Facebook, offering a 30-day window to opt out after accepting the updated terms. However, the **2021 policy** update removed this choice, making data sharing with Meta compulsory. Users had to accept the new terms—including mandatory data sharing—to continue using the platform, marking a major departure from the previous policy. (*Attached is the 2016 privacy policy marked, “C” and the 2021 privacy policy marked, “D”*)
- 3.1.8 Since the 2021 policy was an update to the 2016 policy, any acceptance of it meant that the user would be governed by the new terms, which include mandatory data sharing with Facebook (now Meta) group.
- 3.1.9 The 2021 policy does not differentiate between users who opted out in 2016 and those who did not. Instead, it requires all users, regardless of their previous choice, to accept the new terms in order to continue using the service. By doing so, they agree to the sharing of their data with Meta companies going forward.
- 3.1.10 Before **May 7, 2021**, many users believed they had no choice but to accept WhatsApp's 2021 Update in order to continue using the service. WhatsApp framed the new terms as an all-or-nothing decision, leaving users with the impression that rejecting the update would result in losing access. As a result, acceptance of the policy during this period was not entirely voluntary but rather driven by the necessity to maintain service.

3.2 Sharing data with Meta Companies without consent of data subjects

- 3.2.1 Without the consent of Ugandan users, WhatsApp shares user data with Meta companies including Facebook, Instagram, Messenger, Oculus (now Meta Quest), Threads, and Reality Labs contrary to **Sections 7 and 19 of the Data Protection and Privacy Act, 2019 and Regulations 34(1), 30(1)(b) & (2) of the Data Protection and Privacy Regulations, 2021.**
- 3.2.2 In all circumstances, using the personal data of data subjects that is beneficial to the data controller like Whatsapp, and or marketing must necessarily, and all material times be

the subject of informed and voluntary consent, and such consent, its scope, extent and duration must always be within the control of the data subject.

3.3 WhatsApp's Data Privacy Policy difference in Europe and Uganda (Africa)

- 3.3.1 In Europe, WhatsApp limits data sharing with parent company **Meta**, ensuring greater user privacy. However, in Uganda and other non-EU regions, WhatsApp shares more user data with Meta for targeted ads and other purposes, offering weaker privacy protections. *(Attached is the Europe 2021 privacy policy marked, "E")*
- 3.3.2 Meta Parties does not afford the same level of protection to the Ugandan users and European users which is discriminatory.
- 3.3.3 The privacy safeguards for users in the European region appear to be better than those for users in Uganda, even though the General Data Protection Regulations (GDPR) where WhatsApp is situated and the Uganda Data Protection and Privacy Act offer similar standards and protections.
- 3.3.4 Users in Europe were provided more information with respect to data points collected; why such data points are collected; what the data will be used for; and in the event of a withdrawal of consent, how to exercise that prerogative and option. *(Attached is the Europe 2021 privacy policy marked, "E")*
- 3.3.5 Quite differently from the policy applicable in Uganda, a specific provision of the European policy states: *"When we process data you provide to us based on your consent, you have the right to withdraw your consent at any time, without affecting the lawfulness of processing based on consent before its withdrawal. To withdraw your consent, visit your device based or in-app settings."* On the contrary, the only way Ugandan users can discontinue Meta Parties ability and to collect their data including for profiling and marketing is to delete their WhatsApp account. *(See page 53/60 of the Europe WhatsApp 2021 privacy policy marked, "E" and compare it with page 11/12 of the WhatsApp 2021 privacy policy applicable in Uganda, marked "F")*
- 3.3.6 Meta treats Ugandan users unfairly, unjustly, exploitatively, discriminately, and unscrupulously and appear to view them only as a source for extraction while actively denying them their legal and fundamental protection under law.

3.4 Excessive Data Collection Under the WhatsApp 2021 Privacy Policy:

- 3.4.1 WhatsApp collects an extensive range of metadata, and its 2021 Privacy Policy introduced new categories of data collection that are excessively broad, imprecise, and

difficult to interpret contrary to *Section 14 of the Data Protection and Privacy Act, 2019*.

- 3.4.2 The platform's comprehensive data collection practices, particularly its integration with other Meta-owned entities, extend beyond what is reasonably necessary for its primary function as a messaging service. Such practices lack sufficient justification and may raise concerns regarding user privacy and data protection compliance.
- 3.4.3 WhatsApp acquires user-provided information, including but not limited to mobile phone numbers, profile pictures, and "about" details. Moreover, the platform tracks user activity data, including interaction patterns, timestamps, and session durations whenever individuals engage with its services. Additionally, WhatsApp utilizes cookies to monitor consumer behavior, preferences, and language settings, thereby engaging in extensive data tracking and behavioral analysis.
- 3.4.4 In **January 2018**, WhatsApp launched its Business App for small enterprises, followed by the introduction of the Business API for larger corporations in August of the same year. In February 2018, WhatsApp Pay was introduced as a financial transaction service. These business-oriented features necessitate the collection of substantial data from business users, including customer contact information, business-related multimedia content, metadata, and transactional order details. Specifically, WhatsApp Pay facilitates the collection of financial transaction data from users, including credit card details and transaction history, thereby expanding the scope of WhatsApp's data processing activities to include sensitive financial information.
- 3.4.5 While some basic data is necessary for providing messaging services, the collection of information through cookies and location tracking does not appear essential for this purpose. Additionally, the data gathered from businesses—including user interactions with businesses, third-party data, business-related photos, videos, metadata, and order details—goes beyond what is required for messaging services. This level of data collection seems excessive in relation to the services offered.
- 3.4.6 Businesses using the WhatsApp Business API must have a Meta Business Manager account, which requires a Facebook profile. When a business creates a Facebook profile, Meta collects various types of data under its own data policy, including cookie data and information from third-party services. The extent to which WhatsApp processes data from third-party sources appears unnecessary for delivering its core messaging services.
- 3.4.7 WhatsApp does share certain categories of information with other Meta companies. The varied purposes for which the data is shared amongst Meta group companies inter alia

include to meet growing demand to enable businesses to build their businesses and reach their customers globally, etc.

3.5 Procedural faults by WhatsApp LLC towards collecting data outside Uganda:

- 3.5.1 WhatsApp LLC in its Updated Privacy Policy demonstrates that the data extracted from Ugandan data subjects is stored outside Uganda i.e. USA.
- 3.5.2 There is no recognized public record from the regulator that Whatsapp/Meta complied with the legal requirements governing cross-border transfer and storage of data collected, outside Uganda. There is neither an Adequacy Proof from the appropriate authority (Data Protection Office), or an approval/agreement from the Attorney General contrary to **Regulation 30(5) of the Data Protection and Privacy Regulations, 2021** which requires data processors or controllers wishing to store personal data in a non-listed country to prove that the country has adequate protections.
- 3.5.3 The purpose of the Adequacy Proof in compliance with the Data Protection and Privacy Act is to ensure that the data harvested from Uganda and transferred to data centers outside the Ugandan borders, is to protect Ugandan Data Subjects, and afford the Regulator the opportunity to assess and ensure protection of the data subject. For instance, Whatsapp in its privacy policy notes that the data harvested from Uganda is also stored in the United States. Currently, the **United States does not have a single, comprehensive federal data protection and privacy law** like Uganda's **Data Protection and Privacy Act, 2019** or the EU's **General Data Protection Regulation (GDPR)**. Instead, data protection in the U.S. is regulated through a sectoral approach, meaning different industries and types of data are governed by various federal and state laws.
- 3.5.4 Since Uganda's **Data Protection and Privacy Regulations, 2021, under Regulation 30(4)** requires a country to have **adequate data protection measures** before Ugandan personal data is processed there, the U.S. **may not automatically qualify** because it lacks a federal data protection law and a national DPA.

3.6 Broad and vague language used in the 2021 Privacy Policy:

- 3.6.1 The language used in the 2021 Privacy Policy is vague, broad, and open-ended, relying on terms such as "includes," "such as," and "for example." This creates uncertainty regarding the specific categories of information being collected and shared. Phrases like *"service-related information," "mobile device information,"* and *"interactions with*

others" lack clear definitions, leaving room for expansive interpretations that could extend beyond what users reasonably understand. The use of non-exhaustive lists in the policy suggests that WhatsApp retains the flexibility to expand the scope of data collection at any time and justify it as being covered under previous policies.

3.6.2 Dominant platforms like WhatsApp, by virtue of their market power, can impose these broad terms without providing users a clear understanding of the true cost of using the service in terms of data sharing. This lack of transparency prevents Ugandan users from making informed decisions and places them at a disadvantage, as they are unable to fully comprehend the extent of data being collected and shared or to seek alternatives that better protect their data.

3.6.3 Moreover, the ability of WhatsApp to unilaterally alter or interpret the scope of data collection without an effective choice for the Ugandan user creates a situation where the platform can continuously increase its data capture without any real accountability.

3.7 Continuous use and enforcement of the WhatsApp 2021 privacy policy:

3.7.1 The 2021 WhatsApp privacy policy update remains in effect for users in Uganda, as it has not been revoked. Since most users have already accepted the updated terms, it continues to govern data privacy on the platform.

3.7.2 Users are still required to accept the 2021 update, especially when interacting with businesses that rely on Meta's Cloud API. This demonstrates the ongoing impact of the policy on user engagement and data-sharing practices.

3.7.3 While WhatsApp currently states that it shares only limited data with Meta, the 2021 policy grants the company the authority to expand data-sharing at its discretion. This means that users have no control over potential future changes, leaving their data vulnerable to increased sharing with Meta.

3.8 Regulatory actions against WhatsApp in other Jurisdictions on the same matter:

3.8.1 In July 2024, Nigeria's Federal Competition and Consumer Protection Commission (FCCPC) fined Meta, the parent company of WhatsApp, \$220 million. The FCCPC's investigation revealed that WhatsApp's updated privacy policy violated Nigerian data protection laws. *(Attached is the FCCPC investigation report marked "G")*

3.8.2 Nigeria's FCCPC's order mandated Meta to comply with Nigerian laws and cease exploitative practices. *(Attached is the FCCPC Order marked "H")*

- 3.8.3 In September 2024, South Africa's Information Regulator issued an enforcement notice to WhatsApp, directing it to comply with the Protection of Personal Information Act (POPIA). *(Attached is a report on the enforcement notice to Whatsapp at page 11 of the Chairperson of the Information Regulator (South Africa) media report speech, marked "I")*
- 3.8.4 South Africa's enforcement notice required WhatsApp to update its privacy policy, conduct a personal information impact assessment, and adhere to the provisions of the Promotion of Access to Information Act (PAIA).

3.9 Limitations on redress from WhatsApp LLC:

- 3.9.1 WhatsApp LLC's *Law Enforcement Online Requests Policy* explicitly states that **it only responds to legally valid and binding requests from government law enforcement agencies** and their authorized agents. *(Attached hereto and marked "J" is a screenshot of WhatsApp's Law Enforcement Online Requests Portal)*
- 3.9.2 That as a private entity, the complainant lacks the legal authority to compel WhatsApp Inc. to act on demands in line with violation of the Act, as their policy does not permit compliance with private requests for user data.
- 3.9.3 That the instant complaint will involve a formal investigation which includes disclosure of relevant information, investigating WhatsApp's internal data records, summoning representatives for questioning and coordinating cross-border investigations where necessary, powers that the complainant, as a private organization, **does not possess**.
- 3.9.4 That due to this limitation, the complainant files this complaint directly with the Data Protection Office for appropriate redress under the Data Protection and Privacy Act, 2019 and the Regulations thereunder.

4. CORE ALLEGATIONS:

From the above factual background, the complainant makes the following core allegations for consideration by the **Personal Data Protection Office**;

- a) **THAT** the failure by the WhatsApp 2021 Privacy Policy to provide an opportunity to Ugandan consumers to give their consent to sharing their data to Meta companies is a breach of legal requirements as stipulated under *Sections 7 and 19 of the Data Protection and Privacy Act, 2019 and Regulations 34(1), 30(1)(b) & (2) of the Data Protection and Privacy Regulations, 2021*.

- b) **THAT** WhatsApp LLC together with the Meta companies collect data in excess of what is necessary for the provision of a messaging service contrary to ***Section 14 of the Data Protection and Privacy Act, 2019.***
- c) **THAT** WhatsApp LLC together with the Meta companies failed to procure express consent from data subjects or users in Uganda in the specific circumstances of the Policy contrary to ***Sections 12, 7 and 19 of the Data Protection and Privacy Act, 2019 and Regulations 34(1), 30(1)(b) & (2) of the Data Protection and Privacy Regulations, 2021.***
- d) **THAT** WhatsApp LLC together with the Meta companies bundled necessary data with data not specifically necessary or associated with the operation and delivery of WhatsApp services under their 2021 Privacy Policy without the consent of data subjects freely obtained.
- e) **THAT** WhatsApp LLC together with the Meta companies engage in disparate treatment of users in different jurisdictions under similar governance frameworks with respect to privacy. Specifically, the ***Data Protection and Privacy Act***, to a large extent mirrors the ***General Data Protection Regulation (GDPR)***, however, users in Europe were provided more information and protection with respect to data points collected, and the power to restrict/withdraw their consent, compared to Ugandan users which is discriminatory.
- f) **THAT** the conduct by WhatsApp LLC together with the Meta companies constitutes actual harm to the Ugandan users because it undermines and proscribes data subjects' prerogative to exercise control or self-determine the use and privacy of their data.
- g) **THAT** WhatsApp LLC failed to follow the procedural steps of data collection by data collectors outside Uganda who have to prove adequacy as provided under ***Regulation 30(4) & (5) for the Data Protection and Privacy Regulations, 2021.***

5. PRAYERS AND RELIEF SOUGHT:

WHEREFORE, the Complainant requests the Personal Data Protection Office to:

1. **INITIATE** a full investigation into WhatsApp's 2021 Privacy Policy to determine its compliance with the Data Protection and Privacy Act, 2019.
2. **ORDER** WhatsApp LLC and its parent company, Meta Platforms Inc., to immediately reinstate the rights of Ugandan users to self-determine and control the use, processing, sharing, and transfer of their personal data, and to allow users to restrict or withdraw consent without loss of functionality or deletion of the application.

3. **ORDER** WhatsApp LLC to immediately cease the sharing of Ugandan users' data with Meta, Facebook companies, and third parties until such a time that users have actively and voluntarily consented to each instance of data processing and sharing.
4. **ORDER** WhatsApp LLC to revert to the data-sharing practices adopted in 2016 and to establish an opt-in mechanism allowing Ugandan users to either consent to or withhold consent for additional data sharing with Meta and its affiliates, subject to prior approval by the Personal Data Protection Office.
5. **ORDER** WhatsApp LLC to immediately cease the automatic transfer and integration of data from WhatsApp to Facebook, Instagram, and any other Meta-affiliated services without the express and freely given consent of Ugandan users.
6. **GRANT** any other relief deemed just, equitable, and necessary to protect the fundamental rights of Ugandan users.

DATED at KAMPALA this 31st.....day of March.....2025



ADLEGAL INTERNATIONAL LIMITED