

## **Idec takes action against abuses in WhatsApp's privacy policy**

*There have been several administrative actions in recent years aimed at blocking the changes made by the messaging app*

WhatsApp changed its privacy policy and terms of use in 2021. Since then, Idec has pressured the government in various instances to stop these changes, which to this day are detrimental to the protection of users' personal data.

In a joint request sent in April 2021, Idec notified Senacon (National Consumer Secretariat), MPF-Cade (Federal Public Prosecutor's Office and the Administrative Council for Economic Defense) and ANPD (National Data Protection Authority) about the case, demanding proper investigation of possible violations of consumer rights.

In that document, Idec points out all the risks that consumers are suffering from this change in the messaging app's terms. "There are strong indications that the company disrespects the Consumer Protection Code (CDC) and the Brazilian Civil Rights Framework for the Internet and has not correctly adapted to the new data protection legislation," Idec [wrote in the document](#).

Among the changes announced, Meta (WhatsApp's owner) is forcing users to accept the sharing of personal information and conversations between companies controlled by the group, in addition to companies using the commercial WhatsApp Business tool.

In 2016, two years after WhatsApp was bought by Meta, the company had already made a major change to its global privacy policy to allow personal data to be shared with the other companies in the group.

At the time, Idec denounced to Senacon and MPF the abusive practice of forced consumer consent, given that there was only a 30-day window for users to decide whether or not they wanted the sharing of some data to be allowed, without losing access to the app's features. "The authorities did not pursue Idec's complaints in 2016 and the damage to consumers may have been even greater in the 2021 update," says Camila Leite Contri, a specialist in Idec's Telecommunications and Digital Rights Program.

According to the Institute, Meta violates the LGPD (Personal Data Protection Law) by forcing users to accept these changes and not explaining in detail how this collected information will be shared. "There is no free consumer consent for sharing. WhatsApp should demonstrate that data sharing is strictly necessary to achieve the purpose of using the app and that this is balanced against the interests, rights and freedoms of the app user. It is clear that this is not the case, because the data shared and its purposes are extremely generic and unrelated to the interests of the consumer," says Contri.

### **The timeline of Idec's work in the case**

**In January 2021**, WhatsApp announced changes to the platform's privacy policy and terms of use.

**In March 2021**, [Idec sent its first representation](#) (described above) to Senacon, MPF-Cade and ANPD with the claims and the request to be part of the process as an interested third party, should it be implemented.

**In April 2021**, the Institute participated in the SaveWhatsApp campaign together with other members of civil society against the changes made by the company.

Also **in April 2021**, Idec sent the second notification to Senacon, MPF-Cade and ANPD. The authorities send a joint recommendation to WhatsApp, but nothing is done by the platform.

**In May 2021** were published technical notes by [Al Sur](#) and Latin American civil society organizations and by ["Coalizão Direitos na Rede"](#) (a Brazilian coalition of digital rights' civil society organizations) on WhatsApp's new privacy policy

**In May 2021**, a public hearing was held in the Chamber of Deputies to address the issue. The ANPD sent new guidelines to Whatsapp and opened an administrative procedure to investigate the case. The Authority together with MPF-Cade and Senacon sent a new recommendation to the company.

**In August 2021**, ANPD issued a statement saying that WhatsApp intended to comply with the recommendations it had sent. In the same month, the CGI (Brazilian Internet Steering Committee) issued a statement against the changes made by the messaging app.

**In October 2021**, [Idec sent a new notification to ANPD](#), requesting once again to participate in the process as an interested third party.

**In January 2022**, ANPD denied Idec's application as an interested third party. The Institute appealed and ANPD denied it again.

**In May 2022**, ANPD closed the investigations, understanding that the adjustments indicated in 2021 had been met by WhatsApp, although it had separated the analysis of the legality of sharing consumers' personal data to an autonomous procedure, which to date has had no publicly available analysis.

**In April 2023**, Idec requested to participate in Senacon's administrative process as an interested third party.

**In May 2023**, Idec requested participation in and access to an administrative procedure by the Federal Public Prosecutor's Office that investigates the data sharing policy, in order to contribute to the investigation.

**In August 2023**, Idec sent a contribution to the MPF's procedure, listing points of attention and essential documents for the investigation to continue, in order to assess the legality and risks of sharing consumers' personal data.

Since then, Idec has been putting pressure on the authorities and government bodies by taking part in events, debates, lectures and also through press releases and social media. So far, however, WhatsApp has failed to fulfill its duty under Brazilian law.