



noyb - European Center for Digital Rights
Goldschlagstraße 172/4/3/2
1140 Vienna
Austria

Data Protection Authority (DPA)

Barichgasse 40-42

1030 Vienna

By e-mail: [REDACTED]

Vienna, 26.06.2025

noyb case no:

C-099

Complainant:

[REDACTED], born on [REDACTED]

[REDACTED]

represented pursuant to
Article 80(1) GDPR by:

noyb - European Center for Digital Rights
Goldschlagstraße 172/4/3/2, 1140 Vienna

Respondents to the complaint

Bumble Holding Limited

1 Blossom Yard, Fourth Floor
London, E1 6RS
United Kingdom

Badoo Trading Limited

20 Primrose Street, Third Floor
London, EC2A 2RS
United Kingdom

Bumble Trading LLC

1105 West 41st Street,
Austin, TX, 78756
United States of America

Because of:

Articles 5(1)(a), 6(1), 9 and 15(1)(c) GDPR

COMPLAINTS

1. REPRESENTATION

1. *noyb* - European Center for Digital Rights is a non-profit organization active in the field of protecting the rights and freedoms of data subjects, with registered office at Goldschlagstraße 172/4/2, 1140 Vienna, Austria, registration number ZVR: 1354838270 (hereinafter: "*noyb*") (**Annex 1**).
2. *noyb* represents the complainant pursuant to Article 80(1) GDPR (**Annex 2**).

2. FACTS OF THE CASE

2.1. The respondents to the complaint

3. The app "Bumble for Friends" is a social network that facilitates the development of "platonic friendships". Users create profiles and can connect with other users in their immediate vicinity by swiping to the right to "match" (hereinafter the "BFF App" or the "App").¹
4. The user pool of the BFF App can also be accessed via the "Bumble App", in which users can switch between three modes: "Bumble Date" for romantic relationships, "Bumble Bizz" for professional networking and "Bumble BFF". The separate BFF app was introduced in 2023, while BFF mode has been available in the Bumble app since 2016.²
5. Switching between the different modes requires just one or two clicks. Users can create different profiles for each mode or use the same information for their different profiles.
6. The BFF App is operated by the "*Bumble Group*", which includes Bumble Holding Limited, Badoo Trading Limited and Bumble Trading LLC, *all of which are controllers of the personal data collected and processed via the Bumble For Friends App and the websites*³ (hereinafter jointly referred to as "Respondent", "Controller" or "Bumble").

2.2. The "icebreaker" function

7. In December 2023, the Respondent introduced a new feature called "Icebreakers" in the App. This feature provides users with pre-formulated messages provided by OpenAI.⁴ The Respondent states that for this purpose, user profile data is analyzed by OpenAI's artificial intelligence, which then creates a message based on the profile data of the user sending the message and the user receiving the message (**Annex 3**).

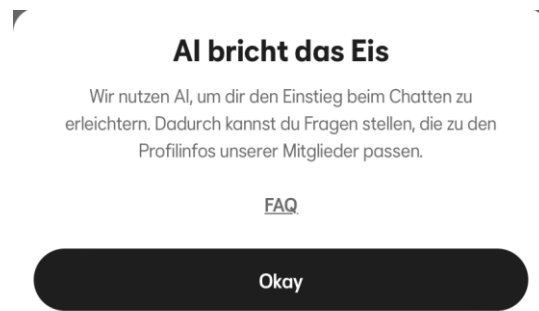
¹ <https://thebeehive.bumble.com/how-does-bumble-work>.

² <https://www.forbes.com/sites/mollybohannon/2023/07/26/bumble-ditching-bumble-bff-feature-for-new-bumble-for-friends-standalone-app/>; <https://www.theguardian.com/lifeandstyle/2016/jun/13/bumblebff-friend-app-tinder>.

³ <https://bumble.com/bff/privacy>.

⁴ Bumble for Friends website on the Icebreaker function: <https://support.bumbleforfriends.com/hc/en-us/articles/16706837809693-How-we-use-your-data-for-icebreakers-powered-by-AI>.

8. With the introduction of the new function, users of the app received a pop-up with the following wording when opening the app (hereinafter the "pop-up"):



9. Users are then prompted to interact with the pop-up by clicking on the following options:
- "Okay", presented as a selectable button (in an earlier version of the banner, the selectable button was "Got it"). The earlier version of the banner is attached as **Annex 4**;
 - "FAQ" stands for frequently asked questions, which are shown as underlined text;
 - One of the earlier versions of the pop-up included an "X" in the upper right corner to close the pop-up. This option is no longer available to users.
10. When users click over the pop-up, it will close. The pop-up then appears every time the app is reopened and at apparently random intervals while the app is being used. According to the complainant's experience, this can be the case up to three times per usage session.
11. The FAQ option is shown as underlined text. When the user clicks on it, he is redirected to a minimalist information page, which mainly explains what AI is and that the data the user has entered in his profile is used by OpenAI to create the AI-generated prompts (**Annex 3**). When the user closes the FAQ page, they return to the pop-up and must interact.
12. "Okay" is displayed as a selectable button, which is displayed in black color and creates maximum contrast with the white background of the pop-up.

2.3. First access request

13. The complainant created her Bumble for Friends account on 21.09.2024.
14. On 14.10.2024, the complainant filled in the contact form provided by the respondent on its dedicated page on AI Icebreakers⁵ in order to obtain information about her data in accordance with Article 15 GDPR and to find out on which legal basis the respondent bases its processing. Bumble support acknowledged receipt of her request on the same day and asked her to provide information linked to her profile in order to "find her active account." (**Annex 5**)
15. As late as 14.10.2024, the complainant provided the telephone number linked to her account. This was followed by an email exchange in which the respondent claimed that it could not retrieve the account linked to the phone number provided, even though the complainant received verification codes to that phone number when logging into her account. The

⁵ <https://support.bumbleforfriends.com/hc/en-us/articles/16706837809693-How-we-use-your-data-for-icebreakers-powered-by-AI> "How we use your data for Icebreakers powered by AI" under "What if I don't want AI to use my data".

Complainant eventually asked where she could find her user ID to help the Respondent locate her account. The Respondent did not respond to this question. (**Annex 5**)

16. On 21.10.2024, the Complainant submitted the email address associated with her account. The Respondent replied that he could not identify her and asked her to provide further details. (**Annex 5**)
17. After some research, the complainant was able to find out her user ID herself and sent it to the respondent on 23.10.2024. The next day, 24.10.2024, the respondent replied: "*Unfortunately, I'm not quite sure how I can help you. Could you please send me a few more details? Please try to explain your question as clearly as possible to ensure that we give you the right answer!*" (**Annex 5**).
18. On 31.10.2024, the complainant (again) asked for information about her data, a list of the recipients of this data and an explanation of the consequences of clicking on "Got it" on the pop-up. (**Annex 5**). This request remained unanswered.

2.4. Second access request submitted to Bumble for Friends

19. In parallel, on 16.10.2024, the complainant filled out another form directly on the data protection page on the Bumble for Friends website⁶, upon which she received a reply from Bumble for Friends support on 24.10.2024 asking her to verify her identity (**Annex 6**).
20. After the complainant had provided the requested identity information, the respondent replied to the complainant on October 31, 2024, referring to its privacy policy and adding a brief explanation of the Icebreaker function. (**enclosure 6**). The complainant also received a copy of her data with a password to download (**Annex 7**).
21. On 06.11.2024, the complainant wrote to the respondent that the data transmitted did not contain any information on the recipients of the data and therefore repeated the request to receive this information in accordance with Article 15(1)(c) GDPR. The complainant also stated that she had never consented to the transfer of her data to OpenAI and asked for an explanation of the legal basis on which the respondent processes this data (**Annex 6**).
22. On 02.12.2024, the Respondent replied and explained that the Icebreaker function is available in conversations where both users have clicked on "Got it". The Respondent stated that the data is transmitted either when the user sends an AI-generated message himself or when another user sends him an AI-generated message. The respondent did not name the specific recipients of the complainant's personal data, nor did it provide an overview of the complainant's personal data actually disclosed to third parties, as requested. It merely gave examples of information that is "*typically*" transmitted to (unspecified) recipients. The respondent also stated that "*OpenAI cannot use or retain your data to train its own models or for anything else.*" (**Annex 6**).
23. On 16.12.2024, the complainant again asked about the legal basis for sharing the data with OpenAI. She also asked whether the "Got it" button in the pop-up should constitute consent under Article 6(1)(a) GDPR or (acknowledgement of) information under Article 13 GDPR. (**Annex 6**).

⁶ <https://bumble.com/bff/privacy>.

24. On 20.12.2024, the respondent replied that the legitimate interest was the legal basis for the processing (**Annex 6**).
25. On 10.01.2025, the complainant replied that she did not understand what legitimate interest the respondent was relying on and asked for an explanation.
26. On 10.02.2025, the respondent replied that it had a legal interest *in forwarding* user data to OpenAI in order to make the Icebreaker function *available* to users ("*Bumble has a legal interest in forwarding member data to OpenAI in order to make the Icebreaker function available to members who have confirmed that they understand how the Icebreaker function works*". [sic] (**Annex 6**). In essence, the Respondent argues that the legitimate interest it relies on corresponds to the processing activity it seeks to legitimize under Article 6(1)(f) GDPR.

2.5. Third request for information submitted to Nathan Trust

27. In parallel to the above-mentioned requests for information, on 16.10.2024, the complainant found a link to a contact form at the bottom of the respondent's privacy policy, labeled "*talk about the GDPR*". The privacy policy states that inquiries should be addressed to Borlux Ltd, Bumble's representative in the EU (**Annex 8**).⁷
28. By clicking on the contact form, the complainant was directed to a website operated by "Nathan Trust", where she completed the form.⁸ This request remained unanswered.

2.6. Processing by OpenAI

29. At the beginning of 2025, the complainant finally clicked on "Okay" to get rid of the pop-up. The complainant did so with the understanding that she was not giving consent to any kind of processing. Shortly afterwards, she received a message clearly generated by AI (**Annex 9**).
30. It is therefore clear that the complainant's personal data was not only processed by the respondent, but also transmitted to and processed by OpenAI.

3. COMPETENT AUTHORITY/LEAD AUTHORITY

31. According to Bumble's privacy policy, Bumble Holding Limited and Badoo Trading Limited and Bumble Trading LLC are the data controllers in relation to the BFF App.⁹ These companies are based outside the EEA and have no (main) establishment in the EEA. The respondent's privacy policy states that users have the right to lodge a complaint with their local data protection authority.¹⁰
32. As the complainant (i) resided and worked in Austria when she set up her Bumble BFF account, (ii) most of her interactions with the respondent took place in Austria and (iii) none of the above-mentioned companies have an establishment in the EEA, the DSB is competent to handle this complaint pursuant to Article 77(1) GDPR in conjunction with Article 55(1) GDPR and Section 24(1) DSB Act.

⁷ <https://bumble.com/privacy-policy/en#contact-us--our-contact-information>.

⁸ Online application form at <https://services.nathantrust.com/privacycontact> <https://bumble.com/en-us/privacy>.

⁹ <https://bumble.com/bff/privacy>.

¹⁰ <https://bumble.com/en-us/privacy>.

4. GROUNDS FOR COMPLAINT

4.1. Violations

33. The respondent has violated the following provisions of the GDPR:

- (a) Article 5(1)(a) GDPR due to its lack of transparency;
- (b) Article 6(1) GDPR due to its lack of a legal basis for the transfer of personal data to OpenAI
- (c) Article 9 GDPR for the transfer of sensitive data to OpenAI without a legal basis;
- (d) Article 15(1)(c) GDPR as the complainant was not informed about the recipients of her data

4.2. Violation of Article 5(1)(a) GDPR

34. The respondent's privacy policy mentions the transfer of user data to "for example OpenAI", but there is no information about the legal basis or purpose of this processing, nor about the unavoidable processing by OpenAI, although this processing undoubtedly takes place.¹¹
35. The website informing about the Icebreaker function does not explicitly state that data is transferred to OpenAI, but only that OpenAI is "used".¹²
36. The Respondent's statement that OpenAI is used, but cannot process the data further or use it to train its AI model (**Annex 6**), is also unrealistic. In fact, OpenAI operates the well-known AI application ChatGPT, which is trained with data entered into the system, including personal data.¹³ OpenAI states that its models are developed "using three primary sources of information", including: "(2) information we can access through partnerships with third parties".¹⁴ Bumble confirms this on its Icebreaker feature page, where it states that information about users is "drawn upon" by the AI.¹⁵
37. Neither OpenAI nor the respondent indicate the implementation of measures that would restrict the processing of the data retrieved by OpenAI.¹⁶
38. In addition, the Respondent intentionally places a pop-up window in the app that resembles a consent banner and insists that OpenAI is only used when users click on "Got it" (now "Okay") on the pop-up window (**Annex 6**), but then states that the legal basis for processing data is legitimate interest (**Annex 6**). This inconsistency gives data subjects the illusion of control, while in fact their consent is not obtained at all, as the average user thinks that their data will not be collected unless they click "Okay".
39. On the other hand, users are misled by not being informed that the processing related to the Icebreaker function is in fact based on legitimate interests in accordance with Article 6(1)(f) GDPR. This violates not only Article 13(1)(c) and (d) GDPR, but also Article 21(4) GDPR,

¹¹ <https://bumble.com/bff/privacy>.

¹² <https://support.bumbleforfriends.com/hc/en-us/articles/16706837809693-How-we-use-your-data-for-icebreakers-powered-by-AI>.

¹³ <https://help.openai.com/en/articles/5722486-how-your-data-is-used-to-improve-model-performance>.

¹⁴ <https://help.openai.com/en/articles/7842364-how-chatgpt-and-our-foundation-models-are-developed>.

¹⁵ <https://support.bumbleforfriends.com/hc/en-us/articles/16706837809693-How-we-use-your-data-for-icebreakers-powered-by-AI>.

¹⁶ <https://help.openai.com/en/articles/7842364-how-chatgpt-and-our-foundation-models-are-developed>.

according to which the data subject must be informed of their right to object to such processing "*at the latest at the time of the first communication with them*".

40. It is also surprising that the pop-up is displayed in the general Bumble app, although the function does not work in the Bumble Date or Bumble Bizz modes of this app.
41. In summary, the Respondent not only fails to provide information about the processing taking place, but also misleads and confuses users, in breach of Article 5(1)(a).

4.3. Infringement of Article 6(1) GDPR

4.3.1. Lack of legal basis

42. Contrary to Article 13(1)(c) GDPR, the respondent does not refer to a legal basis for the processing in connection with the Icebreaker function in its documents available online. Only at the complainant's insistence did the respondent explain in an e-mail that legitimate interests were the legal basis for the processing of users' personal data in connection with the icebreaking function (**Annex 6**). This confirms that the Respondent does not rely on any legal basis and, in the absence of any other applicable legal basis, relies on legitimate interests as a last resort. The EDPB considers such an approach to be inadmissible.¹⁷

4.3.2. Alleged legitimate interest

43. Even if one accepts this use of legitimate interest as a "fallback", the processing in connection with the Icebreaker function cannot be justified under Article 6(1)(f) GDPR. In order to invoke this provision, three cumulative conditions must be met:

- i. the pursuit of a legitimate interest by the respondent or a third party;
- ii. the processing must be necessary for the legitimate interest pursued¹⁸
- iii. the interests or fundamental freedoms and rights of the data subject must not override the legitimate interest of the controller or a third party.¹⁹

44. These conditions are not met in the case of the processing in question:

- 44.1. The interest pursued must be "*clearly and explicitly expressed*"²⁰ and the controller must inform the data subject of the legitimate interest pursued "*at the time when personal data [...] are collected from that person*".²¹ In the case in question, the respondent did not mention this legal basis (and *even less* the interest pursued) neither in the documents available online nor in the pop-up. The interest pursued was therefore not explained.
- 44.2. At the complainant's insistence, the respondent replied in an e-mail that it had a legitimate interest (**Annex 6**). Finally, when asked by the complainant *what* this interest was, the respondent replied that it "*has a legal interest in forwarding data member to OpenAI to make the Icebreaker feature available to members who have confirmed that they understand how the Icebreaker feature works.*" It is clear from this statement that the Respondent is

¹⁷ EDPB, *Guidelines 1/2024 on the processing of personal data on the basis of Article 6(1)(f) GDPR*, October 8, 2024, § 9.

¹⁸ EDPB, *Guidelines 1/2024 on the processing of personal data on the basis of Article 6(1)(f) GDPR*, October 8, 2024, § 29 and case law cited.

¹⁹ CJEU, C-621/22, *Koninklijke Nederlandse Lawn Tennisbond*, October 4, 2024, §37 ; CJEU, C-252/21, *Meta Platforms and others*, §106; CJEU, *Guidelines 1/2024 on the processing of personal data on the basis of Article 6(1)(f) GDPR*, October 8, 2024, §6.

²⁰ EDPB, *Guidelines 1/2024 on the processing of personal data on the basis of Article 6(1)(f) GDPR*, October 8, 2024, §12.

²¹ CJEU, C-394/23, *Mousse c. CNIL et SNCF Connect*, §46.

relying on the interest of users to have access to the feature. The respondent is therefore not pursuing its own interest or that of a third party. It should be noted that Article 4(10) GDPR excludes the data subject from the definition of the term "third party". The first requirement is therefore not met for this reason alone. Furthermore, the "legal interest in the transfer of user data to Open AI" is merely a repetition of the intended processing and cannot in itself constitute a legitimate interest (see recital 26).

- 44.3. With regard to the necessity criterion, the CJEU states that it should be examined "*whether the legitimate interest in the processing of the data cannot reasonably be achieved equally effectively by other means which are less intrusive on the fundamental rights and freedoms of the data subjects, such processing being carried out within the limits of what is strictly necessary to achieve that legitimate interest.*"²² "*If there are such other means, the processing cannot be based on Article 6(1)(f) GDPR.*"²³
- 44.4. The principle of data minimization must be taken into account when assessing necessity. In the present case, no measures were taken by the respondent to minimize the data processed, as all information contained in the profile, regardless of its sensitivity - many users indicate their sexual orientation, for example - is passed on to OpenAI.
- 44.5. The necessity test also fails, as the respondent's service can be provided without passing on data to OpenAI. Bumble could, for example, consider using its own AI software instead of that of a third party. This is all the more possible as many AI models are available as open source software. Disclosure to OpenAI can therefore not be considered necessary.
- 44.6. When weighing up the legitimate interest of the defendant and the fundamental rights and freedoms of the data subject, the ECJ considers that the scope of the processing in question must be taken into account, among other things.²⁴ In the present case, the scope of the processing is potentially very large, as a large number of users are affected and users can enter extensive information in their profiles.
- 44.7. It is also important to emphasize that processing by an AI system *in itself* has a serious impact on the rights and freedoms of data subjects for a number of reasons.²⁵ These include, for example, the irreversibility of the transfer of data to an AI and the transparency problems associated with AI processing, which hinder the exercise of data subjects' rights.²⁶
- 44.8. The other two conditions are already not met and these considerations lead to the conclusion that the third condition is not met either.
45. The EDPB adds that the assessment of whether the cumulative conditions are met "*should be documented by the controller in accordance with the accountability principle under Article 5(2) GDPR.*"²⁷ In the present case, this assessment, if it was carried out at all, was obviously not documented.

²² CJEU, C-394/23, *Mousse c. CNIL et SNCF Connect*, §48.

²³ EDPB Guidelines, summary on page 2. https://www.edpb.europa.eu/system/files/2024-10/edpb_guidelines_202401_legitimateinterest_en.pdf.

²⁴ CJEU, C-252/21, *Meta Platforms and others*, §116.

²⁵ The recitals of the AI Act, Regulation 2024/1689 of June 13, 2024, list a number of risks.

²⁶ For the exercise of rights in Open AI, see <https://noyb.eu/en/chatgpt-provides-false-information-about-people-and-openai-cant-correct-it>.

²⁷ EDPB, *Guidelines 1/2024 on the processing of personal data on the basis of Article 6(1)(f) GDPR*, October 8, 2024, § 17.

46. As the defendant does not meet any of the requirements to rely on legitimate interest and does not comply with the accountability principle, it infringes Article 6(1)(f) GDPR and more generally Article 6(1) GDPR as no valid legal basis for the processing in question is invoked.

4.4. Infringement of Article 9 GDPR

47. Article 9 GDPR provides that the processing of special categories of personal data is prohibited unless a specific legal basis can be invoked. In this case, the only relevant legal basis would be "explicit consent" under Article 9(2)(a) GDPR.
48. The complainant indicated her religious and political beliefs as well as her sexual orientation in her Bumble BFF profile. These are to be classified as special categories of personal data.
49. The respondent cannot process this data on the basis of its legitimate interest, as such a legal basis cannot be used for special categories of personal data. The complainant has at no time effectively consented to the transfer of her data to OpenAI. The respondent has therefore infringed Article 9 GDPR.

4.5. Violation of Article 15(1)(c) GDPR

50. Article 15(1)(c) GDPR provides that data subjects have the right to obtain access to their data, including information on the categories of recipients or individual recipients. The ECJ has clarified that it is up to the data subject to decide whether they wish to receive information about categories or individual recipients.²⁸
51. In the requests for information described above, the complainant explicitly requested information about the data disclosed and the recipients of her personal data and received only vague answers that did not explain what data was disclosed or to whom it was disclosed and merely referred to the respondent's privacy policy.
52. The Respondent has therefore failed to comply with its obligations under Article 15(1)(c) GDPR.

5. REQUESTS AND SUGGESTIONS

5.1. Request for investigation

53. The complainant requests the DPO to fully investigate this complaint within the framework of the powers granted to it under Article 58(1) GDPR, in particular with regard to
- (a) the legal basis invoked and its validity
 - (b) the necessity of the processing by OpenAI.

5.2. Request for a declaratory judgment and performance

54. The complainant seeks a declaration that the respondent
- (a) infringed Article 5(1)(1)(a), Article 6(1) and Article 9 GDPR in relation to the complainant in connection with the "Icebreaker function" by processing the complainant's personal data in breach of the principles of lawfulness, fairness and transparency and without an appropriate legal basis; and

²⁸ CJEU, C-154/21, Austrian Post.

- (b) violated the complainant's right to obtain information about recipients of her personal data pursuant to Article 15(1)(c) GDPR.

55. The complainant requests that the competent supervisory authority order the respondent to

- (a) cease the unlawful processing of the complainant's personal data in connection with the "Icebreaker function"
- (b) rely on a valid legal basis for the processing of the complainant's personal data in connection with the "Icebreaker" function or no longer transfer personal data of the complainant to OpenAI or other third parties in connection with the "Icebreaker" function; and
- (c) fully comply with the complainant's request for information pursuant to Article 15 GDPR.

5.3. Suggestion to impose a fine

56. The complainant proposes that the competent supervisory authority impose a fine on the respondent pursuant to Article 58(2)(i) and Article 83(5)(a) and (b) GDPR, taking into account the number of users concerned and the scope of the processing

6. CONTACT

57. Communication between *noyb* and the DSB in the context of this procedure can be made by email to [REDACTED], quoting **case number C-099**, or by **calling** [REDACTED].