

[REDACTED]

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**From:** [REDACTED]  
**Sent:** 06 March 2024 14:27  
**To:** Consentorpay  
**Subject:** Clarification on the Equivalence Point

External: This email originated outside the ICO.  
Dear ICO

Here, you say that *Equivalence* is a factor to be taken into account in assessing whether 'consent or pay' will constitute valid consent. You elaborate on this by saying:

*Are the ad-funded service and the paid-for service basically the same? For example, if a service provider offers a choice between personalised ads and a 'premium' ad-free service that bundles lots of other additional extras together, then this wouldn't be the case.*

However, unlike with the other factors (power balance; appropriate fee; and privacy by design) you do not explain the link between this and consent, i.e.

- Is the ICO's view that the services each need to be equivalent for consent to be valid? I assume so but that's not clear.
- If so, why does a differing service (to use the example given by the ICO, the paid for service having more features) have a bearing on the validity of the consent (i.e. how does it affect the choice that users have in relation to the free service).

Kind regards

[REDACTED]

[REDACTED]

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