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The Future For Collective Action Under The GDPR

AFTERNOON WORKSHOP

In association with Brussels Privacy Hub

Tuesday 23 October 2018, Brussels, Belgium

The private right of redress through collective action has the potential to transform the balance of power between companies and consumers.

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Privacy Laws & Business, 2nd Floor, Monument House, 215 Marsh Road, Pinner, Middlesex HA5 5NE
More information: kan.thomas@privacylaws.com Tel: +44 (0)20 8868 9200 www.privacylaws.com

14.00 Registration

Session 1: Mapping European experience of collective action for data protection rights

14.30 Introduction: The scope of Art. 80 GDPR

Chair: **Stewart Dresner**, Chief Executive, Privacy Laws & Business, UK

14.35 The importance of collective action

- ▶ What the EDPS has learned from discussions at the European Data Protection Board and other sources about the importance of collective action as an additional method of redress
- ▶ How the EDPS sees this new collective right developing
Wojciech Wiewiórowski, Assistant European Data Protection Supervisor, Brussels

14.45 Building on European consumer experience

David Martin Ruiz, Senior Legal Officer, BEUC – The European Consumer Organisation, Belgium

14.55 Building on consumer experience in Germany

Isabelle Buscke, Head of Brussels Office, Verbraucherzentrale Bundesverband e.V. (Federation of German Consumer Organisations)

15.05 Enforcing claims as a group

- ▶ While there is no collective redress similar to US class actions in continental Europe, there are hybrid means to enforce claims as a group, for example the right for consumer organisations to sue, the right to assign anti-trust or similar claims to an entity that enforces such claims for a multitude of victims, or so-called sample claims in shareholder disputes.
- ▶ What can we learn from these hybrid means and how can they be transformed into collective redress as required by European data privacy laws?

Dr Boris Uphoff, Partner, McDermott Will & Emery Rechtsanwälte Steuerberater LLP, Munich, Germany

15.15 Precedents in the United Kingdom

- ▶ New types of failures that will give rise to valid claims under the GDPR in English law
- ▶ Types of existing claims and how they have been brought in the English courts
- ▶ Using the GDPR to bring new types of claims, and how this will work in practice

Ashley Winton, Partner, McDermott Will & Emery, London

15.25 Questions and Answers with the audience

Issues which need to be tackled – need for harmonisation?

- ▶ Cross-border complaints
- ▶ Need for individual opt-in to a case
- ▶ Non-Governmental Organisations without a mandate
- ▶ Redress of a problem with and without compensation
- ▶ Scope for using Art. 80 in the employment area

Panel of Session 1 speakers

15.50 Break

Session 2: Quantifying harm and compensation

16.10 Introduction: Collective action is a fundamental right as part of the GDPR. But how should harm and compensation be quantified?

- ▶ Criteria for assessing harm
- ▶ Experience of quantifying material damage

Chair: **Professor Gloria González Fuster**, Brussels Privacy Hub, Belgium

16.20 Lessons from other branches of EU law

- ▶ On which subjects would collective action be appropriate?
- ▶ How would collective action work regarding forced consent to use an Internet based service? (e.g. the Irish Facebook case)
- ▶ Precedents from the Court of Justice of the European Union?

Dr. Orla Lynskey, Associate Professor of Law, London School of Economics, UK

16.40 Implementation of collective action

- ▶ Which procedural rules need to be implemented?
- ▶ How will damages be calculated and how will proceeds from damages claims be distributed?

Dr Boris Uphoff, Partner, McDermott Will & Emery Rechtsanwälte Steuerberater LLP, Munich, Germany

17.00 Questions and Answers with the audience

Issues which need to be tackled – need for harmonisation?

- ▶ Scope for no win no fee cases in Europe?
- ▶ Will collective redress for data privacy claims introduce contingency fee litigation to the European legal systems?
- ▶ The future development of data protection collective action/group litigation

Panel of speakers

17.30 Close

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Venue: The Hotel, Boulevard de Waterloo 38, 1000 Brussels

Register at www.brusselsprivacyhub.eu/events/collectiveaction.html



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