

DATA PRIVACY

FLI NET's Data Protection Practice Group consists of a global network of independent, national law firms who assist clients across a broad range of industries.

SOME CURRENT CHALLENGES FACING THE DATA PROTECTION WORLD

There are major changes on the horizon for data protection laws in Europe. Data protection laws in Europe have been relatively static over the last 20 years, during which time there have been developments in the field of data protection and privacy issues have risen on the risk register for many organisations, but the laws in Europe are now on the cusp of their next major overhaul.

One of the biggest data protection changes on the horizon is the proposed introduction of a new data protection Regulation in Europe. The Regulation will replace the current European data protection Directive. It will build on and strengthen existing data protection rights of individuals as well as adding new rights and requirements that organisations will need to comply with. Unlike the current Directive, the Regulation will not be implemented non-uniformly into national laws, but instead, it will have 'direct effect' (applying directly without the need for national implementation). The European Commission has taken this approach to try to alleviate the problems caused for many organisations operating across multiple EEA countries where they need to comply with differing data protection requirements in each country.

The changes will be good news for individuals – a key aim of the new Regulation will be to bolster the confidence that individuals have in organisations holding and using their personal information (and in turn stimulate economic growth e.g. through internet consumerism). The bad news for many organisations is that the requirements under the Regulation will be even tougher to comply with than the current data protection regime in Europe. As at October 2014, the proposed fines for breaches of the Regulation are huge - up to 100 million € or 5% of global annual turnover.

Data protection also continues to develop in countries outside of Europe and increasingly laws are either being updated or introduced to protect personal data, such as new data protection laws in Singapore and proposals for personal data transfer restrictions in Russia.

Personal data transfers continue to feature on the agendas of many global clients, especially transfers of personal data outside of Europe. Transfers of this data outside of Europe are restricted by European laws and are permissible only if they are what is known as a 'permitted transfer' (such as with consent) or by way of a European Commission approved transfer mechanism.

European courts are increasingly widening the scope of data protection laws, as was demonstrated by the recent Google Spain case where the European Court of Justice held that: Google was a data controller for the data so was obliged to comply with data privacy laws in Europe; Mr Gonzalez had the right to have his information removed from the search engine; and although Mr Gonzalez went after Google US, the Spanish courts had jurisdiction to hear the case. Not only seemingly confirming there is already a right to be forgotten in Europe (no need to wait for its introduction by the proposed Data Protection Regulation) but also organisations outside of Europe that previously might have thought they were not caught by European data protection laws, will need to reconsider.

Furthermore, increased threats to cyber security and reliance on cloud services is a contributing factor to the European Courts' stricter approach to data protection recently and also pan government initiatives to protect cyber data.

BENEFITS

The FLI model and the strength and reach of the data protection practice group and its specialists in this field allows us to offer FLI clients a seamless and quality one-stop shop for their data protection, management and security projects. Clients will have access to top quality, efficient and innovative legal solutions.

Our focus is on getting the best outcome for our clients, and our solutions are always aligned with individual client needs. In addition, a proven collaborative approach means that clients can rest assured that their cross-border concerns will be taken care of in a swift and consistent manner.

EXPERTISE

Successful multi-jurisdictional projects for FLI clients include:

Creating a multi-jurisdictional data retention and destruction policy for a global manufacturer of medical devices. To ensure FLI clients receive cost effective, consistent and high quality advice and compliance documentation, our usual approach is to co-ordinate projects from the UK.

Crafting a guide to data protection compliance in Europe for senior managers of a premier, global provider of end-to-end commercial real estate and loan advisory services and integrated solutions. The guide was drafted in English language by Kirsten's UK team for this US headquartered client and her team then coordinated a review across other key countries. The client was delighted with the resulting quality, practical and consistent guide.

OUR GLOBAL NETWORK WORKS FOR YOU BY PROVIDING

- a single point of management for pan-European and global coverage;
- a multinational team with established networks in each jurisdiction;
- up-to-the-minute advice on developments in legislation and its impact on your business.

A SAMPLE OF OUR SERVICES

Our in-depth experience in the data protection field means that we can provide innovation that delivers on its promises.

Key areas include:

Data protection audits, privacy impact assessments and compliance – drafting bespoke policies and notices, data transfer agreements, providing strategic data protection guidance, review of compliance requirements and cloud technology guidance.

Data management – creation of multi-national data retention and destruction policies.

Security – review of multi-national data protection and security requirements and advice on security breaches.

HEAD OF THE PRACTICE GROUP

Ms. Kirsten Whitfield, Director, Wragge Lawrence Graham & Co (UK)

Kirsten is well known and respected by clients for her opinions, which are based on technical knowledge, many years of experience and sound commercial awareness. Working in-house in privacy compliance roles with two international IT providers means she has walked in clients' shoes – and as a result, can be relied upon for commercially realistic views.

When it comes to data protection, there really isn't much that Kirsten has not come across before. She is also the 'go to' person for complex matters relating to Freedom of Information as well as IT contracting matters.

Kirsten speaks English and German.

Recommendations

Chambers UK: UK-wide, Up and Coming

Chambers UK 2014: "an excellent lawyer and hugely knowledgeable. She is brilliant to work with and responds to requests quickly and helpfully."



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CLIENTS

Our coordinated approach has proven to be successful as we have attracted top-flight clients across a range of industries, including, retail, finance, manufacturing, construction, IT, telecommunications and government bodies.

FLI NET GLOBAL COVERAGE

EUROPE

Albania Austria Belgium Bulgaria Croatia Cyprus Czech Republic Denmark Finland France Germany Greece Hungary Ireland Italy Netherlands Poland Portugal Romania Serbia Slovakia Spain Switzerland Turkey United Kingdom (2)

CIS & THE MIDDLE EAST

Armenia Azerbaijan Bahrain Belarus Israel Iraq Jordan Kazakhstan Kuwait Kyrgyzstan Lebanon Russia Saudi Arabia Ukraine United Arab Emirates Uzbekistan

ASIA PACIFIC

Australia China Hong Kong India Indonesia Japan Malaysia Philippines Republic of Korea Singapore Taiwan Thailand Vietnam

AMERICAS

Argentina Brazil Chile Colombia Mexico Peru Uruguay United States of America (3)

AFRICA

Algeria Angola Democratic Republic of Congo Egypt Kenya Libya Nigeria Republic of Congo Tanzania Tunisia Uganda Zimbabwe

With a global network of 65 independent, national law firms known as FLI NET™, we specialize in providing a wide range of multinational clients with valuable cross-border legal support on a global basis.

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