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## CLIENT UPDATE

### PRIVACY UPDATE

September 21, 2020

A lot has happened in 2020 in terms of privacy!

Here is a brief summary of the main developments.

#### 1. Key enforcement actions/fines in 2020.

Amount	Main grounds	Country
EUR 16,700,000	- Users were not able to exercise their right to withdraw their consent and object to processing for direct marketing purposes. - Incomplete privacy notice.	Italy
EUR 1,240,000	- Insufficient technical and organizational measures to ensure information security.	Germany
EUR 600,000	- Non-compliance with data subjects' privacy rights (i.e. not honoring a user request).	Belgium
EUR 250,000	- Recording phone calls (including personal data such as address and bank details of orders) and storing financial information partially unencrypted. - Incomplete privacy notice.	France
EUR 180,000	- Insufficient security measures. - Large amount of customer accounts, clients' documents and data were easily accessible online. - Poor password management practices (i.e. lack of authentication).	France
EUR 147,800	- During an inspection, the supervisory authority reviewed a number of IT systems and found that one of the systems contained a large amount of personal data that should already have been deleted in accordance with the company's data retention/deletion policy.	Denmark
EUR 75,000	- Unsolicited calls and SMS messages.	Spain
EUR 46,660	- Insufficient security measures. - Company did not perform a DPIA (data protection impact assessment).	Norway
EUR 40,000	- Noncompliance with data breach notification obligations.	Ireland
EUR 20,000	- Poor CCTV practices.	France
EUR 11,200	- Insufficient security measures. - Theft of a private notebook with personal data.	Poland
EUR 3,000	- Use of WhatsApp to send messages with personal information about employees.	Spain

#### 2. Invalidation of the EU-US Privacy Shield framework.

- Read our client update [here](#).
- NOYB, a non-profit group created by Max Schrems, filed more than 100 complaints against entities in 30 European countries for continued use of Google Analytics and other tools. The claims allege that, following the invalidation of the EU-US Privacy Shield regime, there is no legal basis to transfer information to the US.
- Interestingly, the creators of the data protection market standard for cloud, the "EU Cloud Code of Conduct", have announced that they are working on a legal solution for the transfers of personal data outside the EU. If approved or endorsed by data protection authorities, this could be an alternative to the EU-US Privacy Shield framework.

#### 3. California - CCPA

- California Attorney General Xavier Becerra announced in August 2020 approval of the final regulations under the California Consumer Privacy Act (CCPA).
- As a result, CCPA enforcement is already happening.
- Notices of non-compliance have been issued and various class actions have been filed.

**4. Covid 19.** The European Data Protection Board (EDPB) published guidelines on the processing of data concerning health for the purpose of scientific research (read [here](#)) and on the use of location data and contact-tracing tools (read [here](#)), both in the context of the COVID-19 outbreak. Moreover, the number of cyberattacks and data breaches has increased in the last few months.

**5. Switzerland – US Privacy Shield** - On September 8, 2020 the privacy regulator of Switzerland issued an [opinion](#) concluding that the Swiss-U.S. Privacy Shield Framework does not provide an *adequate level of protection for data transfers from Switzerland to the United States*. As a result, organizations wishing to rely on the Swiss-U.S. Privacy Shield to transfer personal data from Switzerland to the United States should seek guidance from legal counsel. That opinion does not relieve participants in the Swiss-U.S. Privacy Shield of their existing obligations under the Swiss-U.S. Privacy Shield Framework.

**6. Brazil.** After some uncertainty, Brazil's new General Data Protection Law went into effect on September 18, 2020. Enforcement will commence on August 1, 2021. Companies should consider whether they are subject to this law and if so, to what extent they are subject to its obligations.

Definitely, it has been a very active year in terms of privacy developments.

If you have questions, or would like to discuss, please contact [ignaciog@meitar.com](mailto:ignaciog@meitar.com)

To all our clients and followers ... SHANA TOVA!

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