

# Stichting Bescherming Privacybelangen

## Claim Code Compliance Document

2023

### INTRODUCTION

Stichting Bescherming Privacybelangen (also trading under the name 'Privacy Protection Stichting', the "**Foundation**") was established in 2021 to represent the users, former users and/or their legal guardians of any product or service capable of processing personal data regarding the users who are, or at any time have been, subject to a Privacy Intrusion committed by one or more Google entities (as defined in clause 1 of the Articles of Association of the Foundation (the "**Articles**") and to investigate and establish the liability of one or more Google entities either directly or indirectly for such Privacy Intrusion and all consequences therefrom or otherwise and to perform all activities or further activities that are incidental to these ends.

The Foundation endorses the Claim Code that entered into force on 1 July 2011, as amended on 4 March 2019 (the "**Claim Code**"). The Claim Code consists of principles (the "**Principles**") and elaborations (the "**Elaborations**") that are considered to be broadly accepted general guidelines and views on how interest groups, such as the Foundation, should represent collective interests, including in litigation. The Principles create a set of standards for the founders, directors, supervisory boards, consultants, funders and advisors engaged by that interest group, in this instance the Foundation.

The Foundation currently has a management board (the "**Board**") consisting of three board members and a supervisory board (the "**Supervisory Board**") consisting of three supervisory board members. The Board is charged with the management of the Foundation and requires prior written approval of the Supervisory Board (amongst others) for certain resolutions that significantly affect the Foundation and/or the interests of the individuals it represents.

### PRINCIPLE I: COMPLIANCE WITH THE CLAIM CODE

The Board and Supervisory Board will discuss adherence to the Claim Code annually in a joint meeting. If the Board should ever wish to deviate from one or more Principles, it requires prior written approval of the Supervisory Board on the basis of clause 7.1 of the Articles. The Board is required to explain the reasons for such deviation in the Claim Code Compliance Document.

This document is intended to comply with the requirements set out in clause 7.2 of the Articles and in Elaboration 1 of Principle I of the Claim Code, and is published on the Foundation's website: <https://stichtingbeschermingprivacybelangen.com/documenten>.

### PRINCIPLE II: PROTECTING COLLECTIVE INTERESTS ON A NOT-FOR-PROFIT BASIS

The Foundation is a not-for-profit organization and acts accordingly in the collective interests of users, former users and/or their legal guardians, of any product or service capable of Processing personal data regarding the users who are, or at any time have been, subject to a Privacy Intrusion (as defined in the Articles) committed by one or more Google Entities, Google Officers and/or affiliated processors and/or joint controllers, while having their domicile in the Netherlands, and who are persons whose interests the Foundation represents pursuant to its object, all terms broadly defined (the "**Aggrieved Parties**").

The Board represents the Foundation. The authority to represent the Foundation is also vested on two board members that act jointly. The Foundation does not generate revenue by requiring the Aggrieved Parties to pay a registration fee. There is therefore no risk of inappropriate use of such funds as identified by the Claim Code in Principle II and for which the Claim Code provides important safeguards.

Clause 27.5 of the Articles provides that if the Board adopts a resolution to dissolve the Foundation, it will need to stipulate how surplus funds on winding up, if any, are to be allocated, in line with the objects of the

Foundation and must be deployed for an institution serving the public good. The resolution to dissolve the Foundation (including the allocation of a possible surplus) is subject to prior written approval of the Supervisory Board (clause 27.2 in conjunction with clause 26.1 of the Articles).

### **PRINCIPLE III: EXTERNAL FUNDING**

The Foundation entered into a Project based agreement with Lief Cabraser Heimann & Bernstein, LLP ("**LCHB**"). LCHB finances the activities of the Foundation for the benefit of consumers who, at any time on or after 1 March 2012, have used one of Google's many products and services while residing in the Netherlands and are as such affected by Google's violations of the law. In addition, LCHB may assist with inter alia the website operational support, possible contacts with individual Aggrieved Parties, and consultation on substantive matters, but only if and to the extent instructed to do so by the Foundation, and as such solely within the scope of such instructions (the "**LCHB Agreement**").

The Foundation has investigated the track record and reputation of LCHB. LCHB has agreed to fund litigation initiated by the Foundation through a judgment on the merits by the Court of First Instance. The members of the management Board, members of the Supervisory Board, and the lawyers of the Foundation are all independent from LCHB and its affiliates. The funding conditions do not conflict with the collective interests the Foundation aims to protect on the basis of its Articles. The control over the strategy of the Foundation as well as the engagement of Attorneys lies exclusively with the Foundation. LCHB does not decide the Foundation's policy or course of action and the Board acts independently from LCHB. The LCHB Agreement includes a forum choice for the Netherlands' courts, a choice of law for Dutch law and a stipulation of LCHB to designate an address in the Netherlands for the benefit of the LCHB Agreement. The Foundation ensures that all third parties that the Foundation enters into an agreement with, confirm that they can only accept instructions coming from the Foundation.

In return for the risks and costs assumed by LCHB and the services it may provide (if and to the extent instructed to do so by the Foundation), , LCHB will be entitled to 18% of the gross compensation of any cash recovery achieved through a collective settlement or litigation. In the event of both cash recovery and non-cash recovery (i.e. in kind compensation), LCHB will also be entitled to receive 18% of the cash-equivalent value of the non-cash part of the compensation, provided the cash-equivalent thereof can be readily determined. In the event the cash-equivalent of the non-cash part of the compensation cannot be readily determined, LCHB is entitled to receive between 18% - 25% of the cash recovery. The specific % that LCHB in such scenario is entitled to will be agreed upon between the Foundation and LCHB on the basis of reasonableness in relation to the specific circumstances of the recovery. In the event of non-cash recovery only, where it is not possible to readily determine the cash-equivalent thereof, the compensation to LCHB will not exceed three times the total cost of its services and its funding.

### **PRINCIPLE IV: INDEPENDENCE OF THE FOUNDATION AND AVOIDING CONFLICTS OF INTERESTS**

In accordance with the Claim Code and the Articles, any apparent conflict of interest between the Foundation's engaged advisors, the Supervisory Board, and the Board should be avoided. In all cases where there is a direct or indirect conflict of interest between the interests of the Foundation and the interests of one or more members of the Board and/or the Supervisory Board, the individual with the conflict of interest may not take part in the deliberations and shall abstain from voting with respect to the matter in which he or she has a conflict of interest (Clauses 13.1 and 19.2 of the Articles). If all members of the Board have a conflict of interest, the resolution shall be taken by the Supervisory Board (Clause 13.2 of the Articles).

The Foundation shall, in accordance with Principle IV.3 and Clause 13.3 of the Articles, not conclude an agreement with an entity in which a Board member and/or a Supervisory Board member or its close affiliates is involved as a director, founder, shareholder, supervisory, associate, partner, member or employee. This does not apply to the remuneration of a private legal entity that is solely used for the performance of its duties as a Board member or Supervisory Board member for the Foundation.

None of the Board members or Supervisory Board members are related to each other, related to each other's spouses or to individuals connected with LCHB. The Board members and Supervisory Board members are not involved in positions that detract from the goals of the Foundation.

## **PRINCIPLE V: COMPOSITION, TASK AND MODUS OPERANDI OF THE BOARD**

The Board represents the Foundation. Elaboration V.1 of the Claim Code provides that the Board of the Foundation should consist of at least three individuals. Currently, the Board consists of: Ada van der Veer (board and supervisory board member of various multinational companies (among them financial institutions)) and foundations, including a position as supervisory board member at Data Privacy Stichting), Ira Rubinstein (Senior Fellow at the Information Law Institute at NYU Law School, former associate general counsel at Microsoft and board member at Data Privacy Stichting) and Marlies van Eck (principal consultant on technology and privacy with Hooghiemstra & Partners and University Lecturer at the Radboud University Nijmegen). Given the current composition of the Board, it has adequate legal and financial expertise and experience.

The Board runs a website for the Foundation: [www.stichtingbeschermingprivacybelangen.com](http://www.stichtingbeschermingprivacybelangen.com). This website provides public access to all relevant information, including the following documents: (i) the Articles, (ii) this Claim Code Compliance Document, (iii) a short biography of the members of the Board and the Supervisory Board, (iv) updates on any pending litigation, (v) the annual report of the Board, (vi) the annual report of the Supervisory Board, and (vii) the ability to contact the Foundation.

## **PRINCIPLE VI: REMUNERATION OF THE MEMBERS OF THE BOARD**

The decision on whether the Board members receive remuneration for services rendered to the Foundation, lies with the Supervisory Board (clause 6.6 of the Articles). The Board members have the specific expertise (including legal expertise) required for their roles within the Foundation. Given the complex international setting of the matters in which the Foundation operates, the exposure, and the specific requirement of legal knowledge and knowledge of data protection/privacy (in combination with technology), the Supervisory Board deems it justified to provide an hourly rate of EUR 350 / USD 400 (excluding VAT) for time spent by its Board members. In addition to the hourly rate, the Board members are also entitled to charge out-of-pocket expenses.

## **PRINCIPLE VII: THE SUPERVISORY BOARD**

Currently, the Supervisory Board consists of three individuals: Ben Knüppe (former attorney at law, board member and bankruptcy trustee in high profile bankruptcies in the Netherlands (e.g. the bankruptcy of DSB Bank)), Clive Zietman (Attorney at law and Head of Commercial Litigation at Stewarts Law LLP (London) specialised in high value and complex disputes and group litigation) and Ari Waldman (Professor of Law and Computer Science at the Northeastern University, a leading authority on law, technology and society and a widely published scholar.). The Supervisory Board meets at least once a year and organizes an annual combined meeting with the Board to discuss, amongst others, the strategy of the Foundation. The Board keeps the Supervisory Board informed on all material matters of the Foundation. As Elaboration VII.7 suggests, the Articles contain a requirement for the Supervisory Board to order the Board to have the annual accounts verified by a registered auditor. The Supervisory Board is charged with the approval of the annual accounts.

For her/his services and duties, each member of the Supervisory Board is entitled to an amount of EUR EUR 8,000 per annum (excluding VAT) (the "Fee"). The USD or GBP equivalent of this amount will be determined at the time of payment. All annual payments after the first payment shall be made within ten (10) calendar days of the anniversary date of the first payment. The chairperson is entitled to an amount of EUR 10,000 per annum (excluding VAT). Any costs and/or out of pocket expenses can be charged separately to the Foundation. Given the current composition of the Supervisory Board, it has adequate legal and financial expertise and experience, in accordance with Elaboration VII of the Claim Code.