

# Claim Code Compliance Document

June 2023

## INTRODUCTION

Stichting The Privacy Collective (the "Foundation") endorses the Claim Code that came into force on 1 July 2011 as amended on 4 March 2019 (the "Claim Code").

The Foundation currently has a Management Board (the "Board") consisting of three natural persons and a Supervisory Board (the "Supervisory Board") consisting of three natural persons. The Board conducts the management of the Foundation and requires prior written approval of the Supervisory Board for certain resolutions that may significantly impact the Foundation and/or its endeavors to achieve its object.

In this statement, which is published on the website of the Foundation, the Foundation sets out in which way it complies with the Claim Code. In doing so, the Foundation complies with Principle I of the Claim Code and clause 17 of the Articles of Association of the Foundation ("Articles").

This statement replaces the June 2022 statement.

## PRINCIPLE I: COMPLIANCE WITH THE CLAIM CODE

The Articles of the Foundation prescribe in clause 17 that the Foundation shall comply with the Claim Code. The broad outlines of the Foundation's governance structure are published each year on the Foundation's website. In this document the Foundation sets out how it complies with the provisions of the Claim Code.

If the Board wants to deviate from the Principles of the Claim Code, it needs to submit each proposed change to the Foundation's Supervisory Board for discussion as a separate agenda item (clause 17.3 of the Articles).

## PRINCIPLE II: PROTECTING COLLECTIVE INTERESTS ON A NON-PROFIT BASIS

The Foundation is a non-profit organization. The Foundation serves to protect the interests of natural persons who use the Internet by browsing on the internet, and/or using products and/or services that can store, transfer or process personal data in digital form, as a result of which a violation of the right of these persons to have their privacy rights protected or their rights to have their personal data protected, takes place or has taken place, in the broadest sense of the word, as per its statutory purpose, clause 3 of the Articles (the "Affected Parties").

The Foundation does not request any of the Affected Parties to pay an upfront a fee to the Foundation, which means that there is no risk of inappropriate use of such funds as identified by the Claim Code in Principle II. In addition, clause 9 of the Articles stipulate that the Foundation can only be represented by the Board or two board members jointly, which prevents that individual Board members can dispose of the capital of the Foundation.

Elaboration II.3 of the Claim Code provides that the Articles should also contain a provision that a liquidation surplus should be distributed amongst the Affected Parties.

While such a provision is absent from the Articles, clause 21.3. 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 object of the Foundation and therefore must benefit the participants of the Foundation or a charitable organization whose object is similar to that of the Foundation. The resolution to dissolve the Foundation (including the allocation of a possible surplus) is subject to prior written approval of the Supervisory Board (clause 21.3 of the Articles).

## PRINCIPLE III: EXTERNAL FUNDING

The Foundation entered into an agreement with Innsworth Capital Limited, a litigation funder based in Jersey and managed by Innsworth Advisors Limited based in London (the "Funder"), and has engaged the Funder to provide funding to the Foundation (the "Funding Agreement").

The Funding Agreement was concluded in writing. Pursuant to the Funding Agreement, the Amsterdam District Court has exclusive jurisdiction and Dutch law applies.

The Foundation's Board has investigated the strength of the Funder's source of funding. The conditions of the Funding Agreement were the subject of discussions between the Foundation's Board and the Funder. After these discussions, the Foundation's Board and the Funder agreed upon conditions that are in line with the Claim Code. The funding conditions also do not conflict with the collective interests the Foundation aims to protect on the basis of its Articles. In return for the services rendered and the risks and costs assumed by the Funder, it will receive a fee to be determined according to a scale at 25%, 15% and 10% of any financial recovery. The fee is therefore reduced as the amount of the financial recovery increases.

The members of the Board, the members of the Supervisory Board, and the lawyers and service providers of the Foundation are all independent from the Funder and its affiliates, including the Funder's manager(s) (Clause 18 of the Articles).

The Funding Agreement is confidential. The Foundation and the Funder have agreed on conditional information-sharing, to the extent relevant for the Funder in view of its rights and obligations under the Funding Agreement.

Under certain conditions and circumstances, and upon request of the relevant Court, the Foundation may disclose the Funding Agreement to the court.

In March 2023, the Foundation entered into an Agreement with Luminate Strategic Initiatives ("LSI"). Luminate has provided the Foundation with a grant to support the Foundation. The purpose of the grant is to allow The Privacy Collective to strengthen its capacity at organizational level. The strategic litigation team at LSI funds organizations that challenge unlawful data practices by large technology companies and seek remedies for harms to people and society. Funding The Privacy Collective is part of that effort to pursue the enforcement of our data and privacy rights.

#### **PRINCIPLE IV: INDEPENDENCE AND AVOIDANCE OF CONFLICTS OF INTERESTS**

There shall be no close family relationships or similar relationships within the Board and the Supervisory Board and between Board members and Supervisory Board members. The same applies to the relationships of Board members and Supervisory Board members with persons associated with the Funder, including the Funder's manager(s). Primary or ancillary positions of Board members and Supervisory Board members that are prejudicial to their independence should also be avoided (Clauses 4.5. and 14.1. of the Articles). The Foundation has an adequate conflict of interest policy (Clause 8.1 (f) and Clause 13.1 (f) in conjunction with Clause 14 of the Articles) and the current governance of the Foundation provides sufficient safeguards in this respect.

The Foundation shall not conclude agreements with a (legal) person or any other entity in which a Board member or Supervisory Board member is involved in the capacity of board member, founder, shareholder, supervisor, associate, partner, member or employee. This shall not apply to the remuneration of a personal private company or other legal entity of a Board member or Supervisory Board member for the performance of his duties on behalf of the Foundation (Clause 14.3. of the Articles).

#### **PRINCIPLE V: COMPOSITION, TASK AND WORKING METHOD OF THE BOARD**

The Foundation currently has a Board consisting of three natural persons in accordance with clause 4.1 of the Articles. The current Board members have adequate legal and financial expertise and experience to determine and execute the (financial) policy of the Foundation, and to guide the Foundation to the achievement of its the statutory objectives.

The Board requires the approval of the Supervisory Board for certain resolutions that significantly impact the Foundation and/or its object (Clause 5.4. of the Articles). In addition, the Board is required to report at least once a year to the Supervisory Board on its actions (Clause 15.1).

The Board maintains a website <https://theprivacycollective.nl>. The website is accessible to the general public and it contains all required information. No contribution is requested from the class members and supporters.

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

The Supervisory Board may decide to grant Board members a remuneration that is in reasonable proportion to the nature and extent of their work (Clause 4.8 of the Articles). Regarding the remuneration of the Board, the Supervisory Board has determined that the Chair will be paid the fixed fee of EUR 36,000 per annum and the other members of the Board will be paid the fixed fee of EUR 25,000 per annum. If the estimated workload is exceeded, the members of the Board may charge overtime at EUR 250 per hour. Each year, the actual remuneration paid to board- members, - in the aggregate - will be included in the Foundation's annual report, to be published on the Foundations' website after adoption of the financial statements of the relevant year.

(Elaboration 3 of Principle VI of the Claim Code). The Supervisory Board regards these hourly rates as reasonable and market-conform.

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

The Foundation has a Supervisory Board consisting of three natural persons in accordance with Clause 10.1 of the Articles.

The members of the Supervisory Board are independent of the Foundation's Board (Elaboration VII. 2. of the Claim Code). Under article 10.6 of the Articles, the joint assembly of the Board and the Supervisory Board determines the remuneration of the Supervisory Board members, which remuneration should be in reasonable proportion to the nature and extent of their work (Clause 10.6 of the Articles). The joint assembly has decided that the Chair of the Supervisory Board will be paid the fixed fee of EUR 12,000 per annum and the other members of the Supervisory Board will be paid the fixed fee of EUR 10,000 per annum. If the estimated workload is exceeded, the members of the Supervisory Board may charge overtime at EUR 250 per hour. Each year, the Supervisory Board will publish the actual remuneration paid in its annual report, to be published on the Foundations' website after adoption of the financial statements of the relevant year (Elaboration 9 of Principle VII of the Claim Code).

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