

Compliance News for Customer People

November 2020

The ChatBot with the £1.25m Fine

Short of time? Here are this edition's Headlines:

- The Brexit bonus? £1bn+ for commercial lawyers!
- £1.25m fine for Ticketmaster after chatbot leads to breach of 9m customers' data
- Marriott checks out of with a 80% fine reduction
- Experian ordered by the ICO to stop unconsented marketing lead creation
- Investigation into programmatic advertising pulled and the DMA's perplexed
- BrewDog reels in the ASA for free publicity. Again
- Outsourcing a contact centre in India? Then roll up your sleeves for lots more due diligence & risk analysis

As we hunker down under Covid lockdowns and restrictions there's not a lot of good news on the horizon - unless there's no "Adequacy" assessment of the UK's data protection framework by the EU as part of a possible post-Brexit deal. In which case there'll be lots more work - if you're a commercial lawyer.

If you're not a lawyer, have a quick read and see what else what might keep you awake at night in the run-up to Christmas...

Welcome to our 17th newsletter:



Information Commissioner's Office

No Deal? Then it's Quids in for the Lawyers

As we all know, predictions are a mug's game, but if the EU doesn't deem the UK's data protection regime to be 'adequate' then that's going to trigger a great deal of work, contract re-writes (and lost business for UK businesses processing the data of EU residents). A report - archly entitled the [Cost of Inadequacy](#) - from the [New Economics Foundation](#) and UCL's [European Institute](#) estimates the cost to be between £1bn to £1.6bn.

The Chatbot did it!



Ticketmaster has been [fined £1.25m](#) for a breach of the data of over 9 million customers which occurred after the implementation of GDPR and the new UK Data Protection Act.

The breach - which resulted in multiple card providers highlighting fraud concerns and Monzo replacing the cards of 6,000 customer who had used the Ticketmaster site - will be blamed on the tech and cyber security teams. But what is of interest to us is that the cyber vulnerability was due to Ticketmaster enabling an [Inbenta](#) chatbot on its payments pages. Inbenta argues that this was against their advice and the ICO seems to agree, but this shows a new area of risk area for organisations looking enhance their customer experience.

Marriott Gains 80% Reduction in ICO Breach Fine

Hot on the heels of BA's massively reduced data breach fine (described in the [October newsletter](#)), Marriott has achieved an 80% reduction in the fine the ICO originally announced it intended to impose.

The moral of this story? Sometimes it definitely pays to invest in a good lawyer!



Credit Reference Agencies Made to Change Their Ways



The ICO has [ordered Experian](#) to be more transparent and open about the way information about consumers with credit reference checks finds its way into the data prospect world. This comes after Experian's two big rivals, TransUnion and Equifax, changed their processes voluntary after ICO audits.

Experian are unhappy about the ICO's interpretation of GDPR, but the investigation does lift the lid on credit referencing, one of the marketing data industry's biggest sources of lead supply.

Long term marketers should expect third party data to become still more rare and expensive.

...While the ICO Pulls Investigation Into Programmatic Advertising

At the same time the ICO has stopped its investigation into programmatic digital advertising. The ICO explained that rather than focus on some key players in the market, such a big issue required a broader, systemic investigation. But it doesn't seem to have started one.

This decision has been far from uncontroversial and even our always measured friends at the [Data & Marketing Association](#) have [questioned the ICO's investigatory and enforcement approach and priorities](#).



A return to a focus on Covid consumer care for financial services sector

As England and Wales have experienced their (respective) second lockdowns and Scotland goes through something similar but more complicated, the FCA has [extended the support it requires firms to offer consumers](#) experiencing Covid-related difficulties.



Judge Rejects Facebook's Appeal of CMA Blocking of Giphy Merger

Facebook's \$400m takeover of Giphy looks to be in doubt after the CMA's challenge has been [upheld on appeal](#).

It's clearly dog eat dog out there in the world of GIFs.





Not for the first, second or even the third time BrewDog has knocked up sweary billboard and press ads, got [told off by the ASA](#) and become indignant as a result.

This time BrewDog's co-founder James Watt righteously declared ""Today the Advertising Standards Authority banned our activism advert. "The ASA can go f*ck themselves. We are in the midst of an existential climate crisis." Quite.



A quiet month for Ofcom.



No energy supplier business failures, this month, but [Utilita](#) has been ordered to pay £500,000 in redress and compensation after revealing it had inadvertently overcharged 40,000 pre-payment customers a total of £125,000.



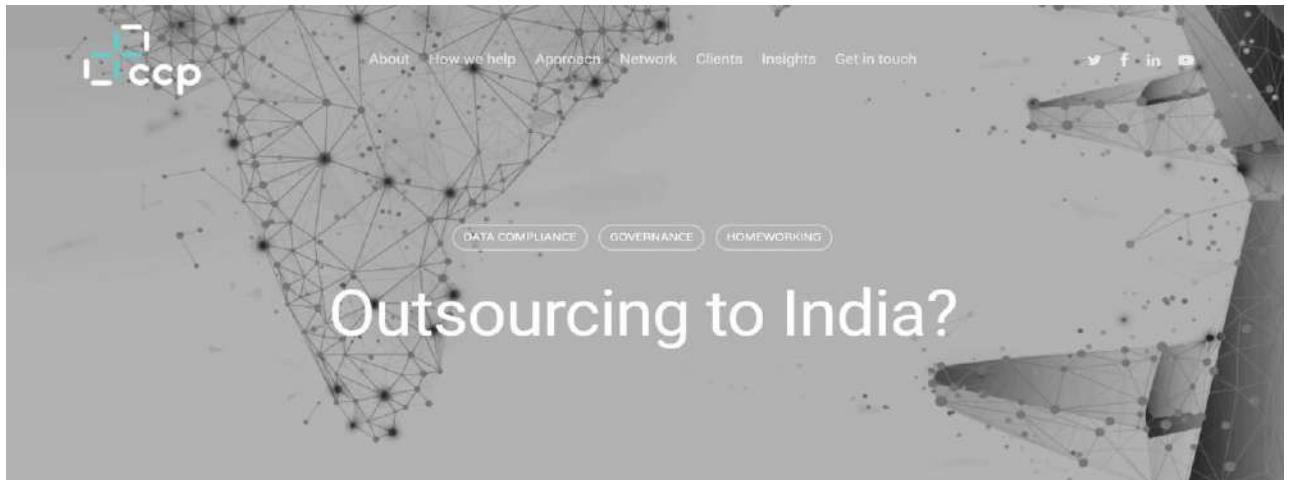
[Ofwat](#) has given water companies a similar message about showing forbearance to customers in Covid-related difficulties as has the FCA for the finance sector.



The Fundraising Regulator has commissioned and published and [independent review](#) of the [Fundraising Preference Service](#). It will come as

No surprise to most observers that its key observation is that most people have never heard of the service (and the charities don't like it much).

Outsourcing to India? Then it's due diligence & risk profiling time!



This [article](#) for the contact centre world, kindly published by our friends at the [Contact Centre Panel](#), looked at the implications of some [revised regulations](#) from the Indian Ministry of Telecommunications.

The new rules relax older restrictions on the use of homeworking staff, which should allow the Indian outsourced contact centre / BPO (Business Process Outsourcing) sector to better cope with the changes wrought by Covid.

However, as the article cautions, the changes and the anticipated expansion of offshore homeworking will put additional due diligence and risk management pressures on outsourcing clients.

The Small Print

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