

GDPR and other European steps toward harmonisation of Collections



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The Impact of GDPR on your firm

- How will GDPR change the existing DP rules?
- What steps do you need to take, and when?
- FENCA's ongoing role in GDPR and lobbying, and the forthcoming Code of Conduct for GDPR
- How can you get involved?
- What else is the EU working on?

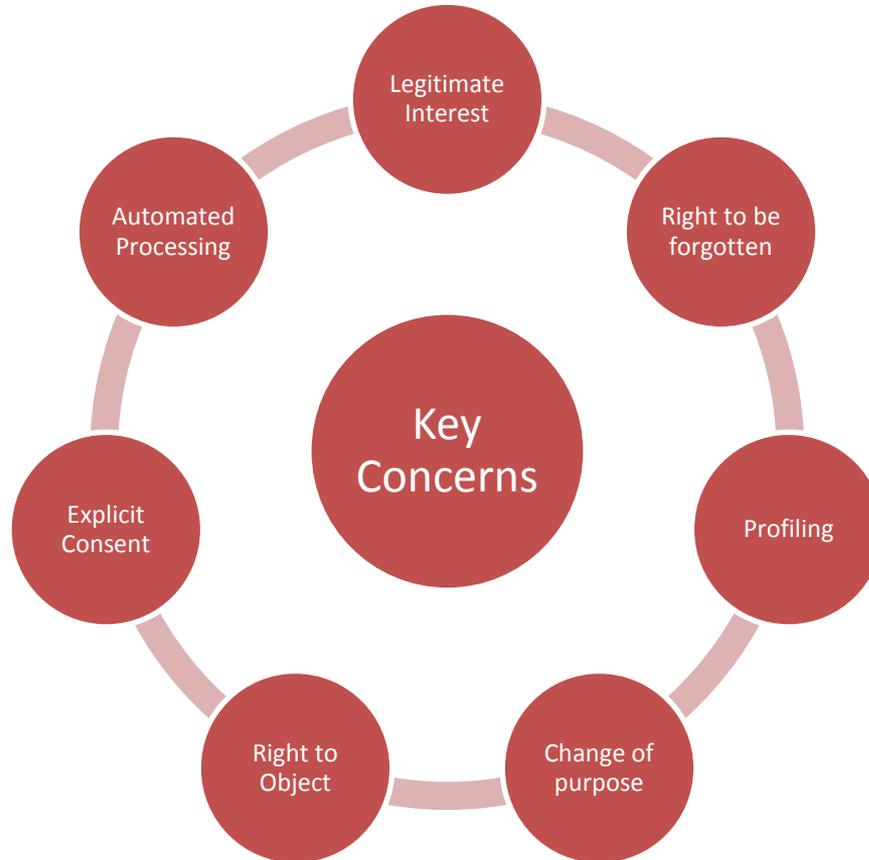
How it all began...



GDPR – An Epic Journey...

- **25th January 2012** European Commission proposal
- **21st October 2013** Proposal of the EU Parliament's LIBE Committee
 - Rapporteur: Jan-Philipp Albrecht (Greens)
 - Shadow rapporteur: Axel Voss (EPP)
 - Shadow rapporteur: Marju Lauristin (S&D)
- **12th March 2014** European Parliament adopts LIBE proposal
- **15th June 2015** European Council adopts proposal
- **24th June - 15th December 2015** Trilogue Negotiations
- **21 May 2016** Publication
- **25th May 2018** Implementation Date

GDPR – Initial concerns

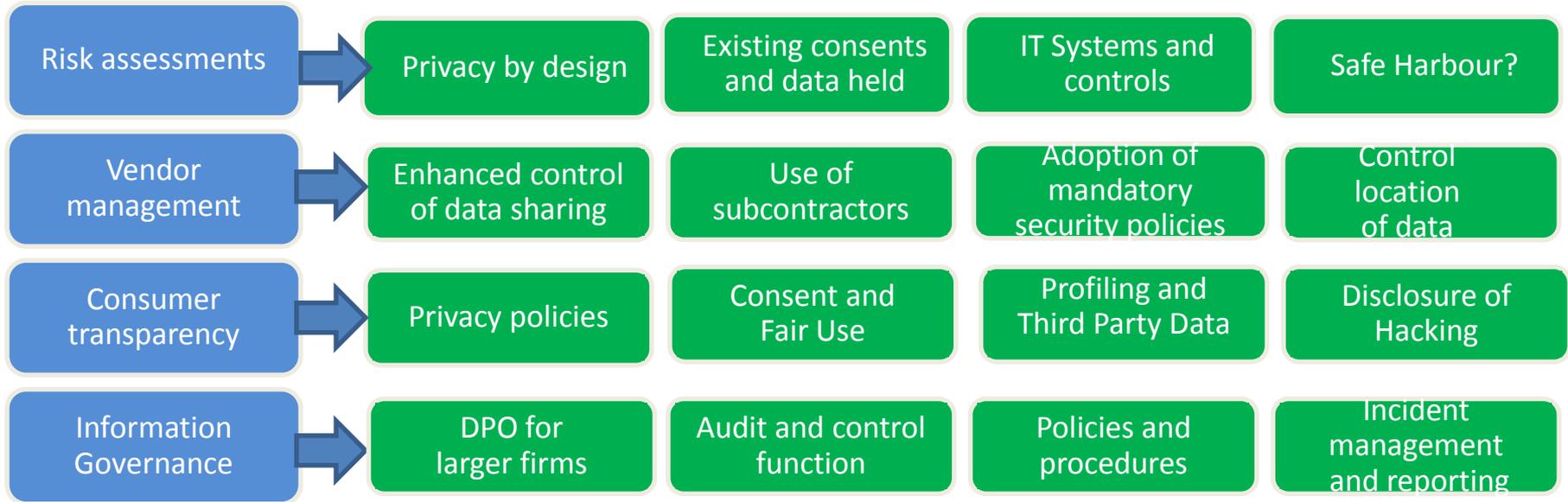


So has much really changed?

- Regulation not Directive for greater harmonisation
- Higher penalties up to €20m
- Data Protection Officers for most larger firms
- Move toward unambiguous and explicit consent
- Privacy by design/default

- Privacy Impact Assessments
- Changes to privacy notices and SARs are now free to data subject
- Greater reporting, only 72 hours for breaches
- Rights to erasure, to object, and data portability
- Processors now liable in addition to Controllers
- GDPR applies to overseas firms

Impact on our industry



How long do we *really* have?

There is **NO** transitional period...

There are now barely **7 months**
until **25th May 2018**...

Have you started yet?

12 steps to compliance from the ICO

1. Awareness
2. Information you hold
3. Communicating privacy information
4. Individual rights
5. Subject Access Requests
6. Legal basis for processing

7. Consent
8. Children
9. Data breaches
10. Data protection by design and PIAs
11. Data Protection Officers
12. International

Fair processing / privacy notices

- Controllers will need to give individuals:
 - more information about how their data is processed
 - details of the rights afforded to them
- Information to be provided will depend on how the personal data was sourced

Legal basis for processing

- Performance of a contract / legitimate interest / legal obligation
 - These are likely to be most common legal bases in debt collection
- Consent
 - Must be ‘unambiguous’
 - Where reliant on consent, be able to demonstrate consent was obtained and for what purposes
 - Explicit consent will be required in certain cases, particularly if the personal data falls within a ‘special category of personal data’

Subject Access Requests

- Free of charge – you must be ready for increased volumes
- Must be provided within one month
- More information, including:
 - retention periods
 - legal basis for processing
 - contact information for data protection officer (where relevant)

Data Protection Officer (DPO)

- Appointing a DPO will be obligatory for some organisations (Article 39) if they carry out large scale systematic monitoring of individuals or large scale processing of special categories of data or data relating to criminal convictions and offences
- Groups can appoint a single DPO
- The DPO must be able to operate independently and receive necessary support and resources
- Statutory responsibility for:
 - monitoring data protection compliance
 - co-operating with regulator

Are Codes of Conduct allowed?

Yes! See Article 40

1. The Member States, the supervisory authorities, **the Board and the Commission shall encourage the drawing up of codes of conduct** intended to contribute to the proper application of this Regulation, taking account of the specific features of the various processing sectors [...]

2. **Associations** and other bodies representing categories of controllers or processors **may prepare codes of conduct**, for the purpose of **specifying the application of this Regulation** [...]

*(The Code will need approval by
the European Data Protection Board and
the European Commission -
but we don't yet know how or when!)*

What is FENCA?

- The **F**ederation of **E**uropean **N**ational **C**ollection **A**ssociations was founded in 1993
- Representing 23 national Associations across the EU, EEA and beyond
- 75% of European debt collection firms, 80% by market share, with €300bn in collection
- Almost 100,000 staff returning c.€50bn to the European economy each year
- Improving business standards and lobbying for our industry across Europe



A warm welcome from the Commission

- EU authorities can't possibly administer the rules for every industry
- Commissioner Vera Jurova recorded a 6-minute video for the 2016 FENCA Congress
- Invitations to the Article 29 working party
- Liaison with DG FISMA, lobbying on ePrivacy, Insolvency framework and the NPL consultation
- Membership of influential ICDP

Industry Coalition for Data Protection

- ACT | The App Association
- American Chamber of Commerce to the EU (AmCham EU)
- BSA | The Software Alliance (BSA)
- Computer and Communications Industry Association (CCIA)
- European Coordination Committee of the Radiological, Electromedical and Healthcare IT Industry (COCIR)
- European Association of Communications Agencies (EACA)
- E-Commerce Europe
- European Digital Media Association (EDiMA)
- European Multi-channel and Online Trade Association (EMOTA)
- European Publishers Council (EPC)
- European Internet Services Providers Association (EuroISPA)
- Federation of European Direct and Interactive Marketing (FEDMA)
- GS1
- IAB Europe
- Interactive Software Federation of Europe (ISFE)
- Japan Business Council in Europe (JBCE)
- TechAmerica Europe
- World Federation of Advertisers (WFA)



Why do we need a FENCA Code of Conduct for GDPR?

- Trust and consistency for European consumers
- Consistent, appropriate data standards across Europe
- Much-needed interpretation of GDPR for our sector
- Official recognition of the Code by the EDPB/Commission

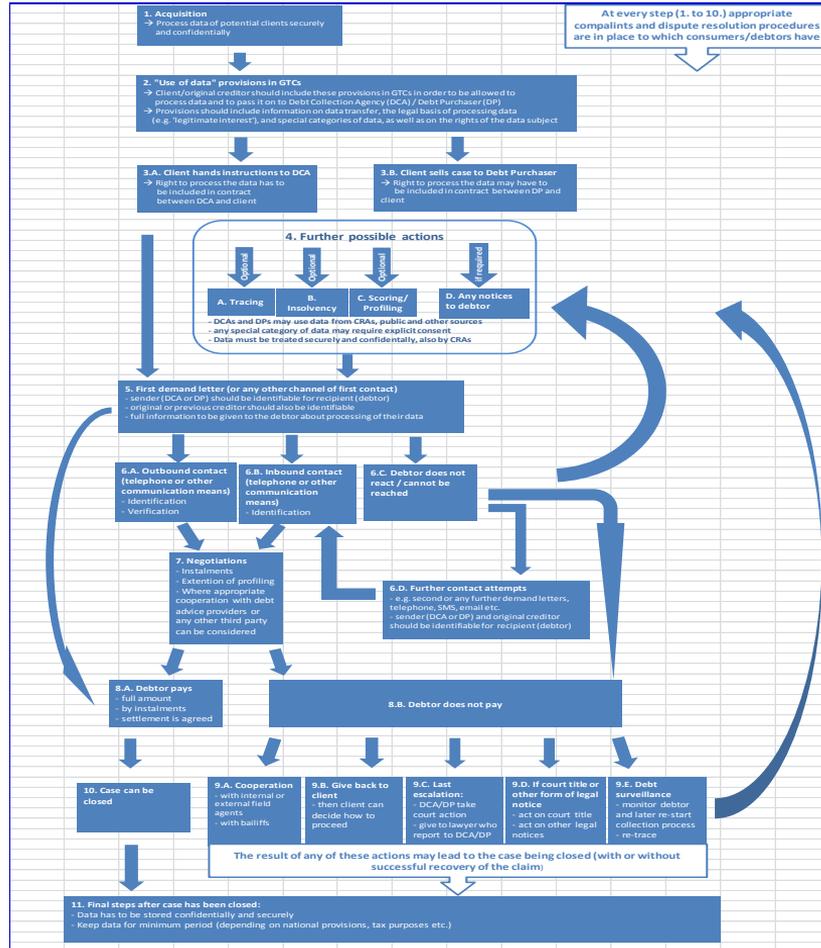
What will be in the Code?

- Sector-specific clarification and interpretation of terminology used in GDPR – consent, retention, breach reporting, notices, encryption
- Guidance for the usage, transfer and erasure of customer data
- Governance to provide for updates of the Code, breaches and complaint handling
- A checklist for adherence to the Code
- A published register of firms adhering to the Code?

How far have we got?

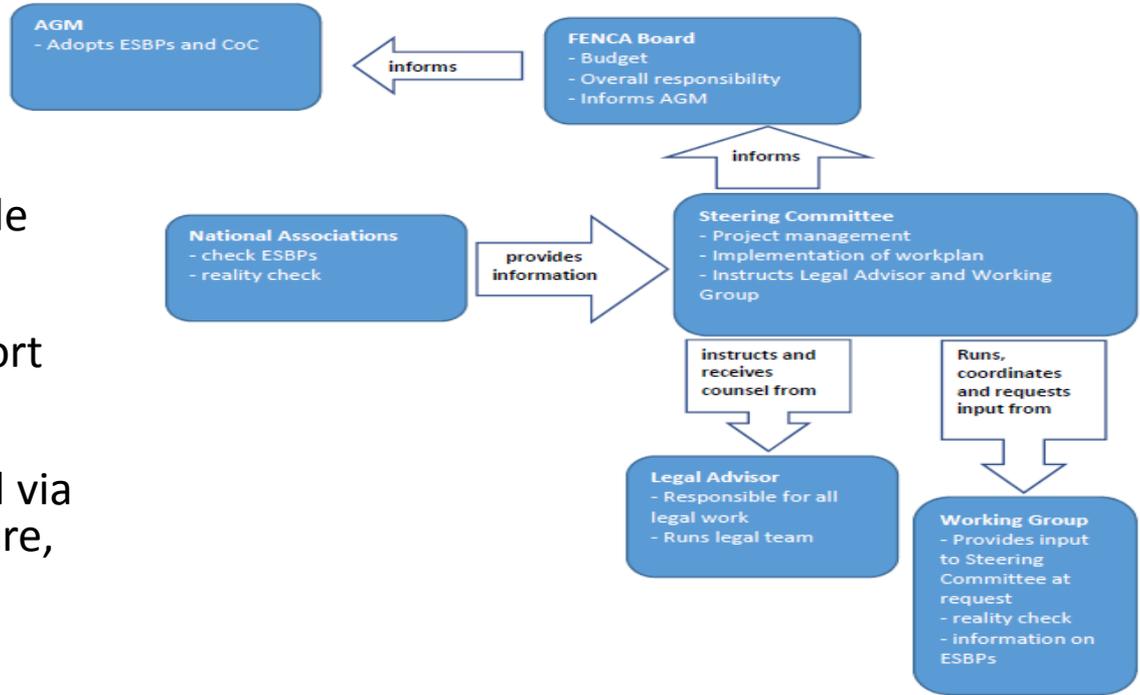
- 2017/18 expenditure approved by FENCA EGM/AGM
- Tender process and appointment of DP lawyer Gero Ziegenhorn
- European Standard Business Practices (ESBPs) approved
- Detailed questionnaire on ESBPs going out this month
- Cross-border firms took part in an inaugural working party meeting in Berlin last month - CSA and other members also have w/ps
- Draft Code by Christmas, for adoption at FENCA EGM April 2018
- Schedule release of the Code May 2018, ready for approval

European Standard Business Practices



Governance

- FENCA Board has overall responsibility to the member associations
- Steering Committee responsible for developing the Code
- Lawyer and working party report to the Steering Committee
- Members frequently consulted via EGM/AGM, ESBPs, questionnaire, draft Code
- Financial support coming from members and individual firms, but no influence gained as a result



What else is coming from the EU?

1. EU Flagship Initiatives:
 - CMU (Capital Markets Union)
 - DSM (Digital Single Market)
2. Consumer Financial Services Action Plan
3. ePrivacy Directive
4. NPL secondary market consultation
5. Small Claims Procedure
6. EU Insolvency Framework
7. Over-indebtedness/Debt advice in the EU

E-Privacy Directive

- **Privacy and electronic communication** (traffic data, spam, cookies etc.)
- **Aligning** the ePrivacy Directive with GDPR
- **Consultation** by Commission (12th April and 5th July 2016)
 - retrospective evaluation
 - possible changes
- **Expected Implementation** 25th May 2018 to coincide with GDPR

Further information

- Further reading:
 - Follow FENCA at www.fenca.eu
[CSA GDPR: what to know and what to do](#)
 - [ICO's Overview of the GDPR and ICO 12 step guide to prepare for the GDPR](#)
- The ICO has also published a quick overview on what information must be supplied in privacy notices:
<https://ico.org.uk/for-organisations/data-protection-reform/overview-of-the-gdpr/individuals-rights/the-right-to-be-informed/>
Article 29 Working Party guidance – links available in ICO Overview document

Thank You! Any Questions?



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