

Consultation questions: Data Protection Fining Guidance

Start date: 2 October 2023

End date: 27 November 2023

About you

Your name:

Email address:

If you are responding on behalf of an organisation, please tell us the name of the organisation, your role and (if applicable) how the views of the members of the organisation have been obtained:

If you are responding as an individual, please tell us if you are responding in a professional or private capacity:

If you are responding as an individual, please tell us if you consent to us publishing your name alongside your response (we will otherwise publish your response anonymously):

Our questions

Answers to the following questions will be helpful in finalising the draft Data Protection Fining Guidance. You do not need to answer all the questions.

The headings refer to the relevant sections of the draft Data Protection Fining Guidance.

Statutory Background

1. Do you have any comments on our approach to the concept of an 'undertaking' for the purpose of imposing fines?

I think if you were aware of the companies act, an undertaking would make sense, Im not sure if there is plainer english language to describe

the nature of a 'group of companies' and any other associate swallowed un in the concept of an undertaking. I dont know how recognisable the term would be to the 'man on the street'.

- 2.** Do you have any comments on our approach to fines where there is more than one infringement by an organisation?

This seems a reasonable approach.

- 3.** Do you have any other comments on the section on 'Statutory Background'?

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Circumstances in which the Commissioner would consider it appropriate to issue a penalty notice

- 4.** Do you have any comments on our approach to assessing the seriousness of an infringement?

I think this seem reasonable.

- 5.** Do you have any comments on our approach to assessing relevant aggravating and mitigating factors?

I think this seem reasonable.

- 6.** Do you have any comments on our approach to assessing whether imposing a fine is effective, proportionate and dissuasive?

I think this seem reasonable and balanced.

- 7.** Do you have any other comments on the section on 'Circumstances in which the Commission would consider it appropriate to issue a penalty notice'?

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Calculation of the appropriate amount of the fine

- 8.** Do you have any comments on calculating the starting point for the fine based on the seriousness of the infringement?

Its good that there is a measure on the degree of seriousness which may have been there before but not in published form that I am aware of.

- 9.** Do you have any comments on our approach to accounting for turnover when calculating the fine?

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- 10.** Do you have any comments on how we apply aggravating and mitigating factors when calculating the fine?

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- 11.** Do you have any comments on how we make any necessary adjustments to ensure the fine is effective, proportionate and dissuasive?

Sensible.

- 12.** Do you have any other comments on our five-step approach to the calculation of the appropriate amount of a fine?

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Financial hardship

- 13.** Do you have any comments on our approach to financial hardship?

Makes sense.

Any other comments

- 14.** Do you have any other comments on the draft Data Protection Fining Guidance?

On the whole I think it takes a balanced view and approach to how a fine might be arrived at. It definitely makes the process clearer than the original GDPR statements which covered the maximum penalties but didn't seem to go into any detail about how the actual figure much be arrived at so I think its a great step forwards.