STEVENS&BOLTON

INTERNATIONAL NEWSBRIEF

VIEWS ON CURRENT AFFAIRS THROUGH AN S&B LENS

Merde!

WINTER 2017

CONTENTS

PLUS ÇA CHANGE, PLUS C'EST LA MÊME CHOSE...

This famous epigram, observing that nothing really changes, was written by Jean-Baptiste Karr in 1849. On 10 November, John Olav Kerr said in a major speech that Article 50, the Brexit trigger, is revocable and that "we can change our minds at any stage of the process."

It is important to remind ourselves that while superficially things appear to change and evolve all the time, often they do not. Karr/ Kerr – same, same, but different.

There is obviously the all-consuming spectre of Brexit. Depending on who you ask, an unprecedented national disaster or a glorious revolution. Undoubtedly it is the biggest threat to a European union since, well, the empty chair scandal of 1966 (when the French abandoned the EEC because of concerns over national sovereignty but were forced back in because of concerns over their economy), the controversies over the Maastricht Treaty in the 1990s, the Eurozone crises of the last few years and the prospect of Grexit. That's not to downplay Brexit, which continues its interminable (death?) spiral. It's complicated, contradictory and contentious and it's certainly a terrible mess. From Nigel Farage's grimace to Theresa May's shoes, there's nothing pretty about it.

But there's something very familiar about the zeitgeist and the news at the moment. It all feels very much like the early 90s (others with longer memories may hark back to another era). Sex scandals have rocked parliament and government, the Conservative party and the country torn apart by the European issue, terror on the streets of London, and an evolving digital revolution. It's Brexit not Maastricht, ISIS not the IRA and AI not the world wide web. We call our younger generation millennials rather than slackers. Of course these are not identical situations but they all feel somewhat familiar.

A much more immediate example came this week as I was asked by one of our best retail clients to put together a compliance manual on pricing and promotions for their sales team. As I discussed the work with our esteemed head of department she went to her cupboard (maintained in contravention of our paperless office policy). She pulled out a type written document from 1991 on pricing and promotion written for one of her best retail clients at the time. The law was different (but similar) the format different (but similar), and even more strikingly at the back was a type written memo from a colleague suggesting some changes to the document. I expect the same colleague to suggest similar changes to mine. Plus ca change, plus c'est la même chose?

A millennial and his competition law robot

So what's the relevance of this? Well whether at a micro or macro level, there is a tendency to see things as finality, as calamity, as cliff edge, as old or as new. But it's worth bearing in mind that things tend to ebb and flow rather than disappear over cliff edges, never to be seen again. Perhaps more like an ocean than a mountain range. That's not intended as a message to encourage complacency, but it emphasises the need to maintain poise, to retain some sense of scale, to see the power in continuity. Keeping hold of old advice and precedents. And as far as possible keeping clients, colleagues and friends. It feels a little like we are in a storm at the moment but (at least in this author's view) it will blow over. If we can keep our friends at home and abroad we will be better placed to deal with the effects.

I see today's betting odds of the UK rejoining the EU by 2027 are currently 4 to 1. I would put money on it if I thought Brexit was going to happen.

You may find that this issue of International Newsbrief has many of the same themes that have gone before. And if you don't like it, don't worry, another will be along shortly (but I can't promise it will be any different).

A WORD FROM THE EDITOR

I must not lead with an article on Brexit. I must not lead with an article on Brexit. I must not lead with an article on Brexit.

Repeat something often enough and it becomes true. Classic. Well, apparently not. It was quite a close run thing, but in the end instead of an article on Artificial Intelligence and the effect of decisions made by robots (my original topic of choice), we open up with a piece that invites you to contemplate intelligence of a different kind and the effect of decisions made by, er, the British public. As shenanigans in Westminster continually show us, it's all a bit unclear what is going to happen next in the UK. This is why, fresh from his world tour (supporting Little Mix, or something) we have let old International Newsbrief favourite and eternal optimist Gustaf Duhs out of his box to point out that we may just have seen this all somewhere before.

Our Brexit-related discussions continue on a more practical note, as Jamie Crawford reminds us why, notwithstanding Brexit, we should all continue to consider UK-based holding companies as tax-efficient ways of structuring business, our Life Sciences team give an example of the types of practical challenges associated with Brexit with an update on the relocation of the European Medicines Agency away from London, and Beverley Flynn takes a look at the potential effect of cross-border data transfers into the UK post-Brexit. Elsewhere, our finance, restructuring and insolvency team (aka the "FRI guys") take a look at the recent Monarch administration, Hannah Ford reports on employer monitoring of employee private communications and we interview Beverley Whittaker, Head of Commercial, as our "Talking Head".

As if that wasn't all enough, Oscar Horwich, dealmaker, takes us on a tour de force of a corporate deal. Look out for the bizarre references to Dante's inferno, a fake penis and a curious marriage proposal - our 'Back Pages' section is designed to give a flavour of life at S&B. Like most corporate lawyers, never knowingly over-dramatic, Oscar's words should obviously be taken at face value.

I must also report that we have given esteemed cartoonist Gary Parnell a reprieve for this issue. After drawing that dog 73 times, and Jonathan Porteous just once, Gary has earned a change of topic. Poor Gary will be back in the next issue.

I hope you enjoy this edition of International Newsbrief, and if you would like to discuss any of the articles (or just ring us for a chat) then please feel free to contact me or your usual S&B contact.

Charles Maurice
Senior Associate
charles.maurice@stevens-bolton.com

UK HOLDING COMPANY – STILL A GOOD IDEA IN LIGHT OF BREXIT?

The UK has long been an attractive choice for international business – with its established legal system and mature regulatory environment, this financial sector and service industry hub provides an educated domestic workforce and a convenient time zone (for conducting same day business in Asia, Europe and the US). There are worse places to try and lure overseas talent to!

Less well known is that for almost a decade now successive UK governments have helped shape a domestic tax regime that is open for business generally. The various changes also combine (by happy coincidence) to make the UK a competitive holding company destination. Brexit has not changed any of that.

The basic tax requirements for a holding company structure are straightforward – ensure minimal tax leakage on profits as they journey: (i) from the overseas operating subsidiaries that generate them (navigating local withholding taxes); (ii) through the holding company jurisdiction (aiming to tax receipts); and (iii) onwards to beneficial owners wherever they may be (without losing more to withholding taxes as they go).

The way in which the UK meets these requirements is typically as follows:

- profits repatriate to the UK under its extensive double tax treaty network, either free from local withholding taxes or with those taxes substantially reduced;
- the vast majority of holding company receipts escape UK tax (dividends generally or gains on disposal of operating subsidiary shares);
- revenue protection provisions (which can tax UK companies on the profits of subsidiaries operating in "low tax" jurisdictions) tend only to apply where avoiding UK profit tax has clearly driven the decision to locate a subsidiary overseas; and
- profits leave the UK free of tax, regardless of where they are headed (no dividend withholding taxes or assessing non-residents on most UK share gains).

Most UK holding company structures do not, therefore, rely on EU law for their benefits. They rely instead on a combination of UK domestic legislation and bilateral agreements, and Brexit has no real relevance to either of those. It follows that in the majority of cases the tax consequences of Brexit are unlikely to influence any decision to locate a holding company here or to relocate one from the UK to elsewhere.

In the minority of UK holding company structures where an EU operating subsidiary relies upon EU directives to eliminate tax on outbound payments, then yes there may well be a tax cost post Brexit (assuming no solution can be found). However, any such potential tax issue arises with a small number of EU member states, and even then the incremental additional cost is unlikely to exceed 5%.

The position could well be different where a restructuring is required for regulatory or economic purposes. There, moving to another member state whilst the UK remains within the club may be advantageous given access to EU intragroup tax reorganisation reliefs. Or, conversely, there may be mileage for some in adopting a strategy of waiting to see how this all plays out - keeping in mind that recent UK tax law changes probably mean that holding companies of most operating groups can depart these shores without the UK's main "exit charge" nibbling their profits.

Any decision to relocate from the UK would (obviously) also consider the position in the destination of choice – little point in rushing away from taxes on profits flowing into the UK only to discover the complexities of withholding taxes on profits as they leave the new holding company structure overseas.

Jamie Crawford

Managing Associate
jamie.crawford@stevens-bolton.com
+44 (0)1483 406436

EMA staff have now legalised access to a different kind of 'medicine'. How convenient.

EUROPEAN MEDICINES AGENCY RELOCATION: PREPARING FOR BREXIT

The European Medicines Agency (EMA) is a decentralised EU agency which is currently located in Canary Wharf, London. EMA is responsible for the assessment and safety monitoring of human and veterinary medicines in the EU and EEA and employs approximately 900 people. It has now been decided that the EMA will locate to Amsterdam.

EMA is preparing to relocate from London to Amsterdam in the wake of the Brexit vote and prior to the UK's actual exit from the EU in March 2019. While the UK government is keeping its cards close to its chest on this issue, the UK's Secretary of State for Health, Jeremy Hunt, has urged ongoing close cooperation in the interests of public health and safety.

Various EU Member States submitted applications to be the next location to host EMA and ministers of the EU27 put the matter to a vote on 20 November, leading to the decision in favour of Amsterdam. This was all despite a number of real concerns.

Where to next?

In September EMA published detailed comments and analysis on Member States' bids to host its relocation. The first part of EMA's assessment was in relation to the proposed building itself, and EMA looked at matters such office space, disability access, available meeting rooms and other building facilities such as IT, security, conferencing, archiving and lounge facilities. In addition, each Member State needed to put forward a relocation plan, proposing timelines and setting out how EMA would remain operational in order to guarantee business continuity.

The second part of EMA's assessment related to the accessibility of the location, existence of adequate educational facilities for children, access to the labour market, social security, medical care and maintaining business continuity. Amongst other things, flight connections, accommodation facilities and the availability of public transport were considered.

But were staff prepared to move?

Staff retention rates were a critical concern. It had been assessed that if retention fell below 30% following relocation, EMA would be unable to operate, leading to a public health crisis, medicines becoming unavailable, a reliance on third countries for importation and patients potentially exposed to life threatening situations. Permanent damage to the system would have been likely to occur. Even at the other end of the scale, if staff retention was 65% or more, it has been assessed that the system could still take 2 to 3 years to fully recover.

EMA business continuity

On 16 October 2017 EMA published its "Brexit Preparedness Business Continuity Plan" which aims to safeguard the continuity of EMA's operations to protect public health whilst EMA relocates to Amsterdam. The plan will be continuously reviewed and adapted. Some of the key points arising out of the plan are as follows:

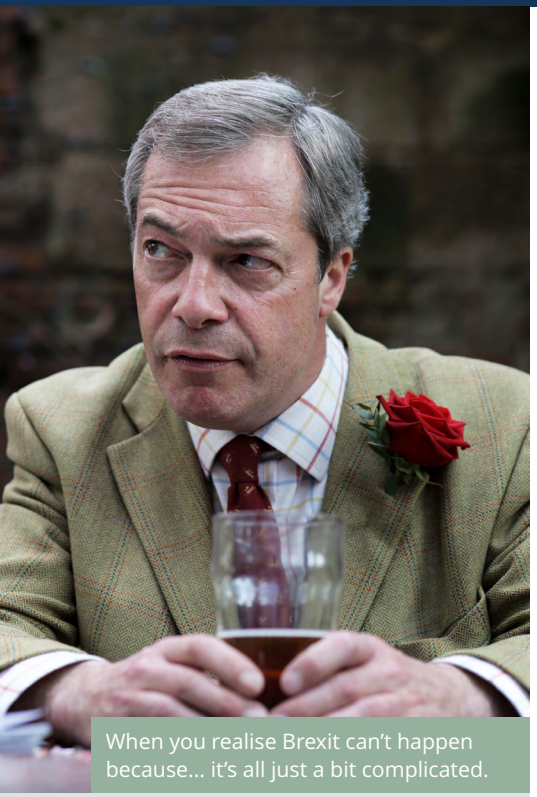
- Ensuring the continuity of EMA operation under a "business as usual" scenario whilst also preparing for Brexit by maintaining current staffing and recruiting additional resources to compensate for staff losses.
- Implementing a phased approach by scaling back low priority EMA activities. The aim of the first phase will be to free up the necessary resources to prepare for Brexit by temporarily suspending or reducing the output of the lowest priority activities. The second phase will aim to ensure that activities with the highest priority can continue.
- Category 1 (highest priority) activities will include core scientific activities such as dealing with public health threats and urgent safety issues. Complying with legal obligations (such as the handling of court cases and access to documents requests) as well as activities with a fee generating component (e.g. inspection fees) will also be prioritised. It is noteworthy that areas such as an influenza pandemic and paediatrics do not fall with Category 1 (highest priority) activities.

UK life sciences industry bodies have pushed for an approach which minimises disruption and ensures continued scientific cooperation and it is hoped that this can be achieved in the Amsterdam relocation. Such matters will affect the lives of over 500 million people living in the EU and it is broadly expected that a cohesive and pragmatic approach will be possible. Please do contact a member of our Life Sciences team if you have any queries.

Charlotte Tillett

Partner, Head of Life Sciences
charlotte.tillett@stevens-bolton.com
+44 (0)1483 406956

BREXIT – THE END FOR FREE FLOWS OF PERSONAL DATA TO THE UK?



When you realise Brexit can't happen because... it's all just a bit complicated.

One of the open questions around Brexit is whether UK organisations will be able to continue to receive personal data from European organisations post-Brexit.

Transfers outside the European Economic Area (EEA) are strictly regulated under the existing EU data protection rules and the EU General Data Protection Regulation (GDPR), which will start to apply from 25 May 2018.

If there is a "hard" Brexit and the UK ceases to be a member of the EEA (i.e. it becomes a 'third country'), these more restrictive rules may apply and it may not be as easy for organisations based in the EU to export personal data to the UK. Broadly speaking, transfers of personal data to countries outside the EEA are generally prohibited unless the recipient country has been recognised by the European Commission as providing adequate protection in relation to personal data, or adequate safeguards are in place (for example, 'model clauses', binding corporate rules or, for the US, the Privacy Shield). EU organisations would therefore have to bear this in mind before transferring any personal data into the UK.

To date, relatively few countries outside the EEA have been approved as adequate by the European Commission – for example, Switzerland is, but the US notably is not. Although it has been suggested that the UK should seek to obtain an adequacy finding and the new UK Data Protection Bill would appear to be an important step towards this, it may not be possible to complete that legal process until after Brexit.

As a result, there is a possibility that EU organisations would need to consider using transfer mechanisms such as model clauses to transfer personal data to the UK post-Brexit. The difficulty of this, as anyone who has had to put arrangements in place with US-based IT providers or other overseas processors will recognise, is the time and cost. Not to mention the uncertainty – particularly as such mechanisms can be vulnerable to legal challenges and the use of model clauses for the US is currently under review by the courts. Data flows between the UK and other third countries could also be affected and require additional or different procedures.

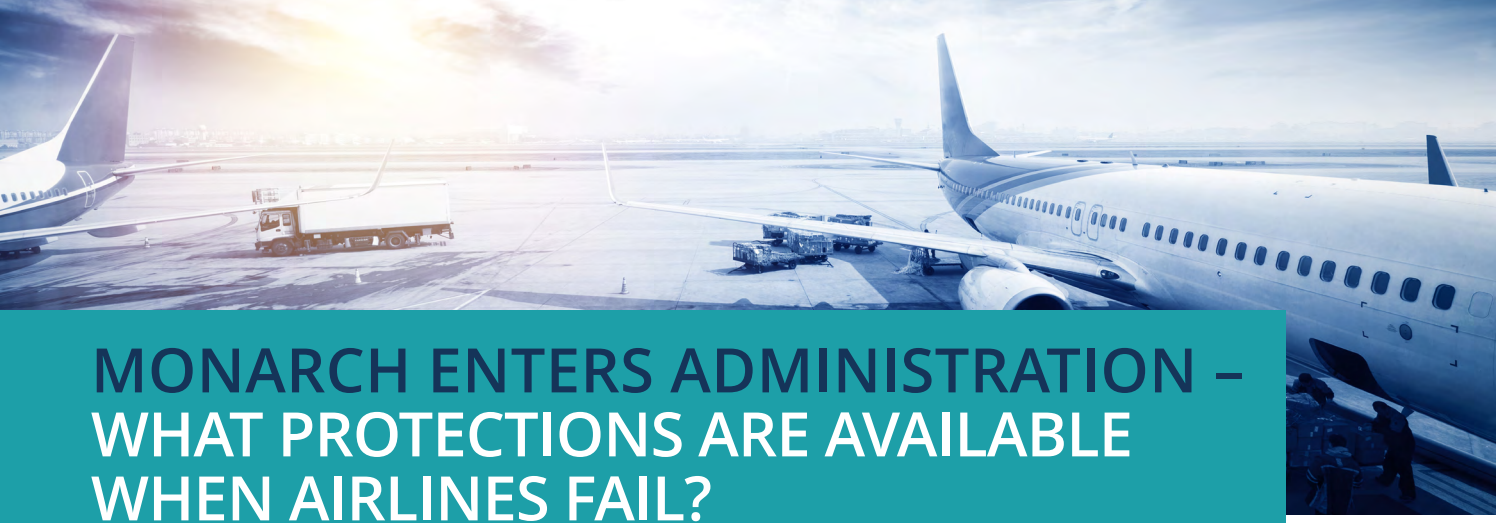
Where does this leave us?

The Government has said it is committed to ensuring unhindered data flows between the UK and EU post-Brexit and has proposed a bespoke transitional UK-EU data sharing arrangement. The proposed model is still subject to negotiation but, if agreed, would apply from Brexit day one and allow for the continued free flow of personal data, until new and more permanent arrangements are agreed. Where we get to in the discussions will also influence and clarify how transfers of personal data from the UK to other third countries such as the US will work post-Brexit.

In the meantime, it seems that the position is not yet clear and it is worth bearing in mind, when entering into medium to long-term arrangements that involve the transfer of personal data into the UK or from the UK overseas, that this is a moving picture.

Beverley Flynn

Partner, Head of Data Protection
beverley.flynn@stevens-bolton.com
+44 (0)1483 734264



MONARCH ENTERS ADMINISTRATION – WHAT PROTECTIONS ARE AVAILABLE WHEN AIRLINES FAIL?

On Monday 2 October, Monarch (the UK's fifth largest airline) entered administration after discussions with the Civil Aviation Authority ("CAA") to renew its licence to sell package holidays failed. The airline reported a loss of £291m last year, citing terrorist attacks in Egypt and Tunisia and a collapse in the market in Turkey as the primary reasons for the drop in profit.

This is only the most recent of a number of reported difficulties facing airlines worldwide. Air Berlin entered administration in Germany in August after suffering reported losses of £2m per day in 2016 and Abu Dhabi-based Etihad Aviation Group abandoned its investment in the airline in April 2017. Air Berlin is being supported by a controversial loan from the German government while it continues to trade and seek to sell off parts of the business. Meanwhile, Etihad itself reported a loss of $1.87bn for 2016 following difficulties with its investments in Air Berlin and Italian airline, Alitalia, which entered administration in May this year.

Back in the UK, there are certain protections available under domestic legislation for those customers affected by flight and/or holiday cancellations.

Protections available within the UK

1. ATOL Protection?

By law, every UK-based travel company that sells holidays including flights is required to have an ATOL licence. Broadly, the ATOL protection scheme only covers the flight when it is booked with either accommodation and/or car hire (which are also covered under the scheme) or where the flight is booked with a travel company but a valid airline ticket is not provided straightaway. Therefore, all such package holidays booked through Monarch will be protected by the ATOL scheme and ATOL-protected customers will be able to claim a full refund.

Further details of the ATOL scheme are available here. [http://www.packpeaceofmind.co.uk/how-it-works/]

However, customers who only booked flights with Monarch may not be ATOL-protected, in which case, the affected customers have the following options to try and seek recourse.

2. Credit card payments

Consumers who made their booking with Monarch by credit card (costing between £100 and £30,000) can claim for a refund from their credit card provider under section 75 of the Consumer Credit Act 1974. This provision makes credit card providers jointly and severally liable for purchases made within the threshold values set out. The same protection does not apply to bookings outside this threshold value or bookings made by debit card. However, some debit and credit card providers (such as Visa) offer a chargeback service on purchases of up to £100 for goods or services not delivered, albeit there is no statutory obligation for them to do so.

3. Travel insurance

If the credit card protection above is unavailable, customers should check the terms of their travel insurance policy with a view to obtaining a refund.

4. Claim in the administration

Finally, any losses to customers not otherwise recovered can be claimed within the administration as a last resort. However, most customers will be unsecured creditors and will rank equally alongside all other unsecured claims. Given the apparent financial situation of Monarch and the number of affected parties, the prospect of any return payment to unsecured creditors is likely to be minimal if anything is paid at all.

Bookings made with travel companies based outside the UK

More generally, when booking a holiday with travel companies based outside the UK, there is no guarantee of ATOL protection. Outside Europe, travel firms selling flight-inclusive holidays to the UK are required to offer ATOL protection. However, for travel firms within Europe, there is no legal requirement to hold an ATOL licence to sell package holidays within the UK, but EU legislation does require them to provide financial protection to consumers. Any claims for financial protection will therefore need to be raised directly with the relevant protection authority in that jurisdiction in the first instance.

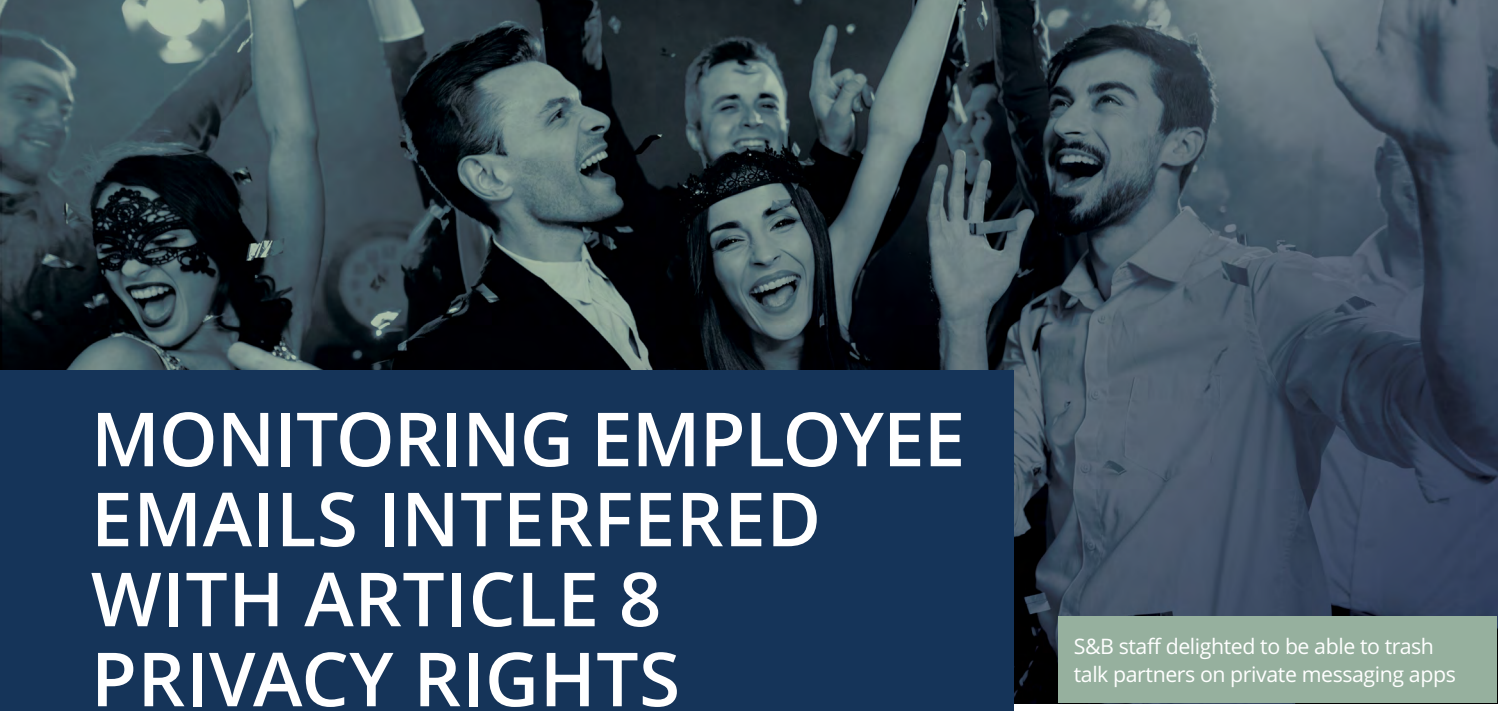
In the event of any issues for UK customers, the CAA should be the first port of call. Further information is available on the CAA website: https://www.caa.co.uk/ATOL-protection/Consumers/Booking-with-European-travel-firms-who-do-not-offer-ATOL-protection/

Tim Carter

Partner
tim.carter@stevens-bolton.com
+44 (0)1483 734248

Lucy Walker

Associate
lucy.walker@stevens-bolton.com
+44 (0)1483 401261



S&B staff delighted to be able to trash talk partners on private messaging apps

MONITORING EMPLOYEE EMAILS INTERFERED WITH ARTICLE 8 PRIVACY RIGHTS

In the case of Barbulescu v Romania, the Grand Chamber of the European Court of Human Rights ("ECtHR"), has found that the monitoring of Mr Barbulescu's Yahoo Messenger communications infringed his Article 8 privacy rights. This decision has overturned the January 2016 decision of the Chamber of the ECtHR, which we previously summarised here.

Facts

Mr Barbulescu was dismissed by his employer for breaching their IT policy, which strictly prohibited any use of the internet, phone or fax machine for personal matters. As part of the disciplinary process, his employer had monitored his Yahoo Messenger account, set up by Mr Barbulescu at his employer's request to respond to client queries, and discovered that he had used the account to send personal and intimate messages, both to his fiancée and his brother.

After unsuccessfully attempting to challenge his dismissal under Romanian law, Mr Barbulescu brought a claim against the Romanian government in the ECtHR for failure to protect his Article 8 right to respect for his private and family life, his home and his correspondence.

In January 2016, the Chamber of the ECtHR, found the monitoring of Mr Barbulescu's internet and email communications to be a proportionate interference with his Article 8 rights and that it was not unreasonable for an employer to want to verify that their employees are working during working hours.

Mr Barbulescu appealed this decision to the Grand Chamber of the ECtHR.

Decision

The decision of the Chamber was overturned by a majority. The Grand Chamber found that Mr Barbulescu's Article 8 rights had been infringed and that the Romanian courts had failed to both protect his rights and failed to strike a fair balance between Mr Barbulescu's and his employer's interests.

Perhaps the key factor in their decision was the fact that the employer's IT policy did not inform employees of the extent to which their internet usage and online communications would be monitored, or that their employer had access to the content of these communications. Also significant was the fact that the Romanian courts had failed to adequately consider the justification for such a strict IT policy, and whether the same result could have been achieved through less intrusive means.

The Grand Chamber set out several factors to be considered when assessing the monitoring of workplace communications to ensure adequate safeguards against abuse. These include the extent to which employees were notified of the monitoring, the extent of the monitoring, whether the employer had a legitimate reason to justify the monitoring and the consequences of the monitoring.

Comment

The Chamber's initial decision was surprisingly employer-friendly. This decision by the Grand Chamber is a return to established principles. This decision emphasises the need for a clear policy on monitoring electronic communications, which explains when and to what degree such monitoring will occur.

It is important to remember that, in the UK, employers' ability to monitor the private communications of their employees is limited under statute. In addition, the Information Commissioner's 'Employment Practices Code' recommends carrying out an impact assessment prior to monitoring communications and this assessment should consider factors similar to those identified by the Grand Chamber. This judgment therefore reiterates the laws and guidelines already in place in the UK.

Hannah Ford

Partner
hannah.ford@stevens-bolton.com
+44 (0)1483 401218

TALKINGHEADS

Beverley Whittaker
Head of Commercial and
Head of Knowledge Management

1. Hi Beverley, thank you for taking the time to speak to International Newsbrief. We hear you have a busy double-life, so perhaps we could kick off by you describing your roles as Head of Commercial and Head of Knowledge Management.

Yes it is certainly a busy time! I have been head of the Commercial team here at S&B for ten years, and the department now consists of eleven lawyers (five of whom are partners). That is quite a large team, and it reflects the breadth of the work we do and our position in the market – our work spans a broad range, from 'pure' commercial contract drafting and negotiation, through to IT, data protection, competition, regulatory, outsourcing and franchising, although the nature of modern business means that a high proportion of our work has some form of technological element to it.

With my other hat on, I have also recently become the firm's first Head of Knowledge Management. I have always been interested in innovation and development, and this role enables me to be at the forefront of the firm's initiatives on driving efficiency, quality and technological development. We've been busy looking at ways in which the firm can evolve to keep pace (and stay ahead of!) developments in the way legal services are provided, and that involves a mixture of implementing new technological solutions (e.g. contract building tools, electronic document signature tools) and improving existing ways in which we work (e.g. better use of checklists and example clauses).

2. The Commercial and IT/tech practices are ranked in the London Legal 500 rankings. What is it, do you think, that enables your team to compete with London firms?

Yes we're really pleased with the rankings, especially being in Band 1 for IT in both Chambers and Legal 500. We do, first of all, have a very experienced team – our team has a usefully varied background before life at S&B and are able to leverage this to the benefit of our clients. Many of us have come to S&B via top London and regional practices, and a number of the team have real hands-on commercial experience, whether as in-house lawyers or from time spent in industry more generally. All of this comes together to enable us to get under the skin of a particular deal, and we really pride ourselves on the holistic approach we take to our work.

On a practical level, our fee structure does, of course, assist. We are able to offer the same service as our London competitors, but at a price point which our clients find more attractive. This can particularly be the case for day-to-day commercial legal advice, where budgets may not stretch as far than in respect of large one-off projects. The other upside to this is that, as a result, we are often able to spend more time becoming part of the client's team – being able to understand a client's business model and to reasonably factor the cost of doing so into the overall price is a welcome position to be in as a commercial lawyer, and something we find that our clients really appreciate.

The other element we often encounter is that, like many of our other departments here at S&B, we are frequently viewed by clients as a team that can compete across the spectrum of deals – we are, for example, equally at home negotiating against lawyers from the larger London practices as we are acting opposite lawyers from regional firms or in-house teams. This often leads to our being instructed as a good 'neutral' alternative – an attribute that proves attractive to some of our larger clients that do a range of different types of deals.

3. Finally, could you tell us a little more about the international elements of the Commercial team's work?

Absolutely. A large proportion of our work as a team has some form of cross-border element, and we represent clients based all around the world, as well as UK-based multinationals in relation to various projects abroad.

In common with other practice areas at S&B we frequently deal with arrangements which are English-law governed but do not otherwise have any nexus to the UK. This can sometimes sound odd (as an example, we recently acted for a Belgian entity contracting in Hong Kong under English law), but it does seem that English law retains its attraction as a governing law of choice for a range of contracting entities based outside of the UK. From my perspective, I think this is because the parties often consider that they 'get what they see on the tin' with English law – for example, there are relatively few instances in English contract law where the law operates to imply terms that likely to be wildly dissimilar to the position that a well-balanced contract would otherwise produce. Whether this is still the case after Brexit remains to be seen, although I am hopeful!

The final thing to say is that we are fairly equally split in our team in terms of referrals in from foreign contacts and referrals out, and certainly we are always keen to explore this further – for example, it is a key part of our service to our clients to be able to recommend the right lawyer for the job in a given foreign jurisdiction. Just in the past week I can think of referrals 'out' to firms in the USA and France and referrals 'in' from firms in Poland and France. These are valued relationships and a vital part of our positioning in the market as an independent commercial offering.

Thank you, Beverley!

Every corporate deal is like a romantic wedding (well, sometimes)

DEAL ME IN

MY LIFE AS A CORPORATE LAWYER, BY OSCAR HORWICH

'Are you ready to complete?' I ask....the silence stretches out, filled only by my heartbeat and the ticking of my desktop clock as it inexorably etches a unit of chargeable time onto the file...

A month earlier

Day 1 – The new deal

A new instruction! It's an acquisition, a big one. The department is awash with excitement, thirty M&A lawyers frozen with anticipation. The hardened deal-junkies who make up one of the best corporate teams in the UK (if you believe them on the subject), are outwardly calm and inwardly screaming. Who will make the deal team? Which of these sparkling minds will be determinedly self-condemned to months of painstaking labour? Who will endure long hours of increasingly intense negotiation, culminating in the nirvana of completion? My desk phone rings.

Day 3 – Heads of terms

The deal has kicked-off in earnest and there is now a glorious team assembled to pool wisdom on the final draft heads of terms. We have drawn on specialists from myriad corners of the firm who are now sharing war stories from previous deals as if we were in Valhalla, not meeting room seven.

An eloquent employment lawyer constructively dismisses my offering on how to deal with an HR issue. The trendy intellectual property lawyer looks up from a glowing iPad momentarily to register a trademark one-liner about the need to verify ownership of the target's IP. The heavy-weight real estate lawyer has the kind of aura which only comes from years of serious deeds...and nods sagely as the reclining antitrust and regulatory lawyer explains competition horizontally.

Finally, the door opens and we fall silent. The tax specialist looms in like a dementor. An icy chill pervades the meeting and the iPad turns off inexplicably. I have been enthusiastically briefing the team, extrovertly imparting deal-experience, allocating responsibility and generally not letting anyone else get a word in edgeways.

I shut the hell up.

With a troubled expression, the tax specialist solemnly declares that an initial review of the proposed structure reveals... no tax issues. We rejoice! The sun streams into the meeting room which looks onto the beautiful River Wey and we breeze out smoothly, a tight-knit unit, bonds forged in the furnaces of a multitude of successful previous transactions.

Day 14 – due diligence

Why on earth did I sign up to this? It is late and getting later. There are lever arch files of due diligence material to review, thoughtfully dumped that day by the 'other side' – a term that luckily refers to the seller's solicitors – not some kind of sinister occult collective (although come to think of it...). I muse on popstar Adele's lyrics "Hello from the other side. I must've called a thousand times" and resolve to sing it down the phone next time. Then it's back to the grindstone - we have a report on the target company to submit in the morning. Is this what separates the men/women from the boys/girls... and then quarantines the corporate lawyers from all of them?

- Perverse pride in working around the clock to meet a deadline: yes
- An eye for detail so keen it puts mustard to shame: check
- Team spirit stronger than absinthe: sure
- Some form of quite severe masochism: presumably

In any case, the Stevens & Bolton corporate department remains fully illuminated at this time, a beacon of activity, humming with endeavour... and the odour of hastily-consumed take-away food. The client receives the report that night.

Day 20 – Negotiation and crunch time

A heady cocktail of pragmatism and dogmatism makes the corporate lawyer an indispensable ally in this kind of negotiation. We are in the ring

with a perfunctorily engaged partner at a huge global law firm backed up by his harried, overstressed junior assistant. I skip round the seller's arguments like Mike Tyson (except without the facial tattoos or a fake penis charged with someone else's drug-free urine in my pocket). What can't be avoided I bludgeon through like a Sharapova serve, only quieter. The serene process of deal management and execution... ends abruptly as we hit a wall.

Day 25 – the wall

There is an issue. A so-called 'deal-breaker.' A late disclosure by the seller has revealed an unpleasantly tentacled problem, reaching out to strangle our project. The deal is teetering; we are poor souls in limbo, on the verge of pain's abysmal valley. Overly-dramatic Dante's 1st circle of hell reference this is not. IMHO we are in at least 5th or 6th circle territory.

I grab my telephone handset from its plinth and rise to my feet. "Deal team – ASSEMBLE!" I bellow. Luckily my secretary, the only person who can hear, knows what I mean and within moments there is a Mcflurry of action as all the specialists coolly and smoothly convene.

The team languishes in the interminable sea of detail which surrounds the deal-breaker... until... the tax lawyer bounds into the room! Understanding dawns on us one by one as our cerebral saviour anoints us. The tax lawyer floats out, carried on a wave of our gratitude. Once again we are up and running, full steam ahead!

Completion day

This is it. The day we have been working towards – all the hard work and now a final push. There are last-minute adjustments to documents and we check and re-check the minutiae. Pulling together input from the crew and its many disciplines – the M&A lawyer is at once grunt and general, chorus and conductor orchestrating a harmonious completion.

Finally, we are all finished but for the consummation on the completion call. Poised and ready... with a pulse that reflects the roller coaster of this particular corporate wedding...

I pop the question.

A dealmaker

Ken Woffenden
Corporate
+44 (0)1483 401260
ken.woffenden@stevens-bolton.com

Jonathan Porteous
Banking
+44 (0)1483 401233
jonathan.porteous@stevens-bolton.com

Charles Maurice
Editor of IN
+44 (0)1483 406971
charles.maurice@stevens-bolton.com

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Stevens & Bolton LLP | Wey House, Farnham Road, Guildford, Surrey GU1 4YD
Tel +44 (0)1483 302264 | Fax +44 (0)1483 302254 | www.stevens-bolton.com

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