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STICHTING DATA BESCHERMING NEDERLAND REPORT OF THE MANAGEMENT BOARD 2023

I. Introduction

Stichting Data Bescherming Nederland ('SDBN' or the 'Foundation') is a Dutch non-profit foundation (*stichting*). The Foundation is an interest organisation within the meaning of article 3:305a Dutch Civil Code ('DCC').

In this report, in accordance with Clause 15(4) of the Foundation's founding articles ('Articles'), the management board of SDBN ('Management Board') gives an account of its activities and the general course of affairs at Foundation over the financial year ending on 31 December 2023.

This report will be published on the Foundation's websites (www.stichtingdatabescherming.nl and www.jestaatkoop.nl) along with the Foundation's annual accounts and the annual report of the supervisory board of the Foundation ('Supervisory Board').

II. Mission

The data economy has brought many benefits. However, the increasingly common unlawful use of personal data by large businesses and institutions is a growing source of individual and societal harm. Protecting personal data rights is essential for the fair treatment of individuals, a flourishing and competitive data economy, and a truly democratic society.

SDBN's mission is to protect the interests of data subjects that have been harmed by infringements of data protection law and to ensure that they are fairly compensated for the damage they have suffered. SDBN is currently investigating a range of legal infringements by businesses operating in the data economy.

SDBN will address these issues with the responsible parties and invite these parties to explore a fair and reasonable solution to remedy these privacy violations and to compensate those who have been harmed by such infringements. Where the responsible parties are unwilling to enter into voluntary settlement discussions, SDBN will initiate collective action litigation on behalf of its constituents to enforce their right to compensation, to obtain injunctive relief to repair existing infringements, and to prevent further infringements.

III. Governance

SDBN is governed by the Management Board and the Supervisory Board, each consisting of independent members with the necessary expertise and affinity in all relevant areas to carry out the Foundation's objectives.

The profiles of the members of the Management Board and Supervisory Board can be viewed on the foundation's websites (www.stichtingdatabescherming.nl and www.jestaatkoop.nl).

III.1 Management Board

At the beginning of 2023, the Management Board consisted of three natural persons: Anouk Ruhaak (chair, appointed 14 March 2022), Arie van der Steen (treasurer, appointed 20 December 2021) and Niels Lemmers (appointed 14 March 2022). On 11 September 2023 Mr. Xander van Dinten was appointed to the Management Board to succeed Mr. Van der Steen as treasurer of the Foundation. Mr. Van der Steen formally stepped down as director of the Foundation as per 15 October 2023. The Management Board hereby expresses its thanks to Mr. Van der Steen for his work and dedication to the Foundation and its mission.

The Management Board is responsible, among other things, for the Foundation's strategy and its financial policy, as well as its day-to-day business. In 2023, the Management Board held regular internal meetings (both in-person and through video conference) to discuss these matters. The Management Board also regularly convened with its advisors to monitor progress in ongoing and potential initiatives, and to discuss matters of *inter alia* governance, strategy (legal or otherwise), financials, and PR/outreach,

III.2 Supervisory Board

In 2023, The Supervisory Board consisted of three natural persons: Ton Louwers (chair, appointed 14 March 2022), Michael Silverleaf (appointed 14 March 2022) and Catherine Mulligan (appointed 7 July 2022).

The supervisory board supervises the policy and strategy of the Management Board, as well as the foundation's general course of affairs, and provides advice to the Management Board (both solicited and unsolicited), always bearing in mind the interests of the foundation's base. The Management Board reports to the Supervisory Board at least once a year.

In 2023, joint meetings of the Management Board and Supervisory Board were held by videoconference on 26 January, 9 March, 2 May and 26 June. An in-person meeting was held in Rotterdam on 11 September 2023. In addition to this, there were frequent (informal) communications between the members of the Management Board, the Supervisory Board, and the Foundation's advisors by e-mail and (conference) call.

IV. Remuneration

As was announced in previous annual reporting, the remuneration policies for the Management and Supervisory Board members were revised in 2023 by resolution of the Supervisory board (30 June 2023) and joint meeting of the Management and Supervisory Board (6 July 2023) respectively. The previous remuneration policy did not sufficiently account for increases in the boards' work load as the Foundation takes on new cases.

IV.1 Management Board

The members of the Management Board receive a management fee for their services to the foundation.

The members of the MB receive a management fee for their services to the foundation. For meetings of the MB or joint meetings with the supervisory board, members of the MB are compensated a remuneration of EUR 1,000 (excluding VAT) per day attended.

For additional services related to the activities of the foundation, members of the MB are entitled to a service fee of EUR 200 (excluding VAT) per hour. This hourly rate is justified, considering the experience of the members of the MB. The hourly rate is unchanged compared to the previous remuneration policy.

The total annual compensation for the members of the MB shall depend on the number of initiatives/cases ('actions') for which the foundation has secured funding. For each separately funded action, the maximum compensation shall not exceed the amount that has been budget for that action, and shall in any case be capped at EUR 17.500 (excluding VAT). For the chair of the MB, this cap is EUR 22.500 per year (excluding VAT). In 2023, SDBN launched two new funded actions (discussed further below), bringing the total to three.

The members of the MB are also entitled to compensation of reasonably incurred costs (e.g. out-of-pocket costs and travel expenses) in the performance of their services, provided that such costs are properly substantiated.

In 2023 Management Board received EUR 204,639 in compensation, including expenses. There was a slight exceedance of the total remuneration cap, of EUR 5,910. This was largely to (i) the considerable extra time that had to be spent launching two new cases (against Amazon and Adobe, see below), including preparation and launch of PR-campaigns and the first round of negotiations/discussion with the defendants, and (ii) additional time spent as a result of Mr. Van der Steen's resignation from and Mr. Van Dinten's appointment to the Management Board.

The start-up costs of the Management Board for each new project have decreased considerably as the board members become more experienced. As such, The Management Board believes the current remuneration policy will be sufficient going forward.

IV.2 Supervisory Board

For their services, members of the Supervisory Board are entitled to an annual remuneration. The amount of the remuneration shall depend on the number of initiatives/cases ('actions') for which the foundation has secured funding. In the event the foundation is handling one funded action, the remuneration shall be EUR 4.500 per

year. For the chair of the Supervisory Board, the annual remuneration shall in that case be EUR 6.500 per year.

For each additional separately funded action, members of the supervisory board shall receive additional remuneration of EUR 2.000 per year. The maximum amount of remuneration for supervisory board members shall be capped at EUR 8.500 per year. For the chair of the supervisory board, the cap shall be EUR 10.000 per year.

The members of the Supervisory Board are also entitled to compensation of reasonably incurred costs (e.g. out-of-pocket costs and travel expenses) in the performance of their services, provided that such costs are properly substantiated.

In 2023, members of the Supervisory Board received a total of EUR 27,356 in compensation.

V. Actions/Initiatives

SDBN currently has three pending cases under the Dutch Collective Damages Claims Act (in Dutch: *Wet afwikkeling massaschade in collectieve acties*, or '**WAMCA**'), brought on behalf of affected data subjects in the Netherlands. WAMCA proceedings are structured in two phases, the preliminary phase focusses on the certification of the Foundation as claimant on behalf of the affected class, while the second phase focusses on the merits of the case. Each case was initiated in 2023 and is still in the preliminary phase of the proceedings. For each action, the Foundation has secured funding from a professional third-party litigation funder (see below, under Financials, par VII)

X Corp/Mopub Case

SDBN has initiated a collective action against X Corp (formerly Twitter.com) and several subsidiaries regarding widespread privacy violations in connection with the use of so-called software development kits ('**SDK**') developed by MoPub, a former X Corp/Twitter subsidiary.

SDKs developed by MoPub were used by third-party developers of many popular free mobile apps (Buienradar, Wordfeud, Vinted, and Shazam, to name a few) in order to enable targeted advertising to their users. This has resulted in the unlawful processing of vast amounts of (often highly sensitive) personal data of millions of data subjects in the Netherlands alone. SDBN is holding Twitter liable for the damages resulting from such unlawful behaviour.

Claim letters were sent in November 2022. The writ of summons was served to X Corp on 13 September 2023. The case was originally brought before the Rotterdam District court. Following discussions between the Foundation and X Corp, and a joint motion to the Rotterdam court, the case was referred to the Amsterdam District Court on 1 May 2024.

Amazon case

SDBN has initiated a collective action Amazon.com and several subsidiaries. The claim focusses on privacy and data protection violations related to large-scale collection and processing of large amounts of personal data from Amazon-users without proper consent and in violation of the GDPR and other applicable law.

Claim letters were prepared and sent to the defendants on 23 June 2023. The writ of summons was served on 18 October 2023. The case is brought before the Rotterdam District court. In accordance with this timetable, Amazon submitted its reply to the writ on 28 April 2024. A court hearing for the preliminary phase is scheduled for 26 August 2024.

Adobe case

SDBN has initiated a collective action Adobe and several subsidiaries. SDBN is claiming both damages and declaratory relief from Amazon for the collection and processing of large amounts of personal data through the unlawful use of cookies and SDKs and in violation of the GDPR and other applicable law.

Claim letters were prepared and sent to the defendants on 1 August 2023. The writ of summons was served on 13 December 2023. The case is brought before the Rotterdam District court. Adobe is expected to submit its

reply to the writ in Q3 2024, and the court hearing for the preliminary phase is expected to take place in Q4 2024.

VI. Activities in 2023

VI.2 Case management

Over the course of 2023, considerable time and effort was dedicated to launching the Amazon and Adobe cases. This included *inter alia* securing the necessary funding (see below), engaging and instructing legal counsel and other (expert) advisors, and developing the foundation's website(s) and online registration platforms. The Management Board also continued to closely monitor the X Corp case to ensure that writs of summons would be served in all three of its cases in the course of 2023.

VI.3 Community outreach/*je staat te koop* campaign

The Foundation keeps its base informed of its activities through its websites (www.stichtingdatabescherming.nl and www.jestaattekoop.nl.) online news letters, and media appearances.

For PR and outreach, the Foundation was able to further build on the success of the Foundation's *je staat te koop* (in English: "you are for sale") campaign, which was launched early November 2022. The *je staat te koop* campaign was designed with the help of pr and media specialists, and initially aimed to promote the initiative against X Corp/MoPub, as well as increase awareness of the importance of privacy and data protection in general. The campaign was very well received in the Dutch press, and led many thousands of consumers to register with the X Corp/MoPub initiative through SDBN's online registration platform at www.jestaattekoop.nl in a show of public support.

The *je staat te koop* campaign effectively communicates consumers' vulnerability to large-scale privacy infringements and the significant risks such infringements pose on a personal level as well as to society in general. The campaign was adopted for the launch of the Amazon and Adobe cases as well, once again leading to significant coverage in the national and international media and leading to thousands of new registered supporters for SDBN's initiatives.

The Foundation began preparations in 2023 for a new outreach-campaign, scheduled to launch in Q2 2024, to further raise awareness for data protection rights and garner further support.

VI.4 Other potential cases/initiatives

Lastly, the Foundation is constantly monitoring the many developments in the field of privacy and data protection, and research other (potential) cases of large-scale infringements that may lend themselves to private enforcement. More information about the Foundation's further projects will be shared on www.stichtingdatabescherming.nl and www.jestaattekoop.nl in due course.

VII. Financials

The financial administration of the Foundation is kept by its treasurer, Mr. Xander van Dinten. Mr. van Dinten has also prepared the Foundation's annual accounts for the financial year 2023.

VII.1 External funding

The Foundation is a non-profit organisation. In order to bear the costs of its initiatives, the Foundation relies on external funding from professional third-party funders. The Foundation does not charge an up-front fee to its constituents for any of its activities.

For the X Corp/MoPub case, the foundation has secured the necessary funding from Tilia Finance LP, registered in the Cayman Islands. Tilia Finance LP is owned by funds that are ultimately managed and advised by Orchard Global Capital Group ('Orchard Global'), a leading alternative asset manager.

For the Amazon and Adobe cases, the Foundation has secured funding from Marsh Funding LLC, established in Delaware (United States), which is an affiliate of Longford Capital Management Group. Longford Capital is a US-based litigation funder, founded in 2013 and headquartered in Chicago.

Non-recourse basis

The funding is being provided on a so-called non-recourse basis: only in the case of success and in return for having incurred the costs and borne the risks of the litigation, is the funder entitled to a success fee.

For the X Corp/Mopub case, the success fee payable to the funder is either a multiple of the funder's capital committed to the case or a percentage of the proceeds awarded to the class (whichever is greater). The multiple or percentage of damages increases with the time that the claim takes to resolve, but shall not exceed 20% of the total proceeds.

For the Amazon and Adobe cases, the arrangement is the same. the amount of the success fee shall depend on the amount of the total compensation awarded to the total class, as well as the duration of the action:

- If the total compensation is less than EUR 50.000.000, the success fee shall be equal to the funder's invested capital *plus* 15% of the total compensation.
- If the total compensation exceeds EUR 50.000.000, the success fee, depending on timing of distribution, shall be the greater of (i) no more than 20% of the total compensation achieved for the class or (ii) 2x-5x (two- to five times) the funder's invested capital.

More information about the Foundation's funding arrangements can be found at www.stichtingdatabescherming.nl and www.jestaattekoop.nl and in the Foundation's annual Claim Code Compliance document, which is also available through the Foundation's website.

(signature page to follow)

Rotterdam, 29 May 2024

w.g.

A.N. Ruhaak (chair)

w.g.

X.G. van Dinten (treasurer)

w.g.

N. Lemmers

STICHTING DATA BESCHERMING NEDERLAND REPORT OF THE SUPERVISORY BOARD 2023

I. Introduction

Stichting Data Bescherming Nederland ('**SDBN**' or the '**Foundation**') is a Dutch non-profit foundation (*stichting*). The Foundation is an interest organisation within the meaning of article 3:305a Dutch Civil Code ('**DCC**').

In short, SDBN's mission is to protect the interests of data subjects that have been harmed by infringements of data protection law and to ensure that they are fairly compensated for the damage they have suffered.

In this report, in accordance with Clause 11(6) of the Foundation's founding articles ('**Articles**'), the supervisory board of SDBN ('**Supervisory Board**') gives an account of its supervision of the Foundation over the past financial year, ending on 31 December 2023

This report will be published on the Foundation's websites (www.stichtingdatabescherming.nl and www.jestaattekoop.nl) along with Foundation's annual accounts and the annual report of the management board of the Foundation ('**Management Board**').

II. Composition

In 2023, The Supervisory Board consisted of three natural persons: Ton Louwers (chair, appointed 14 March 2022), Michael Silverleaf (appointed 14 March 2022) and Catherine Mulligan (appointed 7 July 2022).

The profiles of the members of the Supervisory Board can be viewed on the foundation's websites (www.stichtingdatabescherming.nl and www.jestaattekoop.nl).

III. Performance of supervisory duties

The supervisory board monitors the policy and strategy of the Management Board, as well as the foundation's general course of affairs, and provides advice to the Management Board (both at its request and *sua sponte*), always bearing in mind the interests of the foundation's base. The Management Board reports to the Supervisory Board at least once a year.

In 2023, joint meetings of the Management Board and Supervisory Board were held by videoconference on 26 January, 9 March, 2 May and 26 June. An in-person meeting was held in Rotterdam on 11 September 2023. In addition to this, there were frequent (informal) communications between the members of the Management Board, the Supervisory Board, and the Foundation's advisors by e-mail and (conference) call.

At such occasions, the Supervisory Board shared its views and advice with the Management Board and the Foundation's advisors on various issues, including (i) the Foundation's governance, (ii) (legal) strategy in connection with the ongoing X Corp/MoPub case and other potential initiatives, and (iii) the Foundation's financial policy.

IV. Conclusion

2023 was another busy year for SDBN, in which two new cases were launched, and writs of service were filed in all three pending cases (X Corp/MoPub, Amazon, and Adobe).

The Supervisory Board once again thanks the Management Board's efforts in this respect over the past financial year.

(signature page to follow)

Rotterdam, 29 May 2024

w.g.

A.H.T. Louwers (chair)

w.g.

C.E.A. Mulligan

w.g.

A.M. Silverleaf

**STICHTING DATA BESCHERMING NEDERLAND
FINANCIAL STATEMENTS 2023**

To the board of
Stichting Data Bescherming Nederland
Bergweg 25
3701 JJ Zeist

Financial Statements 2023

Accountmanager: Xander van Dinten
Date established: 29 May 2024

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Financial Statements 2023 of Stichting Data Bescherming

1 General

These financial statements are based on fiscal figures.

The foundation Stichting Data Bescherming Nederland has the following trade names: Stichting Data Bescherming Nederland.

The foundation seat is located in Zeist.

The foundation is registered with the Chamber of Commerce under file number 84811498.

Date of determination financial statements

The financial statements 2023 have been approved during the joint meeting of the Management Board and Supervisory Board, held on 29-05-2024.

Financial Statements 2023 of Stichting Data Bescherming

2 Financial statements

2.1 Balance per 31-12-2023

after appropriation of results

Assets	31-12-2023		31-12-2022
	€	€	€
Receivables			
Value added tax receivables	106,790		67,157
		106,790	67,157
Cash and cash equivalents		2,314	5,000
Total assets		109,104	72,157
		109,104	72,157
Equity and Liabilities			
	€	€	€
Short-term debts			
Other short-term debts	109,104		72,157
		109,104	72,157
Total liabilities		109,104	72,157
		109,104	72,157

Financial Statements 2023 of Stichting Data Bescherming

2.2 Statement of income and expenditure 2023

		2023		2022
€		€	€	€
Income				
Received donations and grants	1,862,973		1,229,478	
1,862,973				1,229,478
Gross margin		1,862,973		1,229,478
Other operating expenses				
Other costs	1,862,973		1,229,478	
-1,862,973				-1,229,478
<u>Balance result</u>		0		0

2.3 Basis of the financial statement

2.3.1 General principles

General policies

Assets and liabilities are generally valued at cost of acquisition or production less depreciation. If no specific valuation principle is stated, valuation is at acquisition price. References are included in the balance sheet and profit and loss account. These references refer to the explanatory notes.

2.3.2 Basis for balance sheet assets

Receivables

Trade receivables are recognised initially at fair value and subsequently measured at amortised cost. If payment of the receivable is postponed under an extended payment deadline, fair value is measured on the basis of the discounted value of the expected revenues. Interest gains are recognised using the effective interest method. When a trade receivable is uncollectible, it is written off against the allowance account for trade receivables.

Cash and cash equivalents

Cash at banks and in hand represent cash in hand, bank balances and deposits with terms of less than twelve months. Overdrafts at banks are recognised as part of debts to lending institutions under current liabilities. Cash at banks and in hand is carried at nominal value.

2.3.3 Basis for balance sheet liabilities

Short-term debts

On initial recognition current liabilities are recognised at fair value. After initial recognition current liabilities are recognised at the amortised cost price, being the amount received taking into account premiums or discounts and minus transaction costs. This is usually the nominal value.

2.3.4 Policies for result determination

Received donations and grants

Income:

Net Income represents amounts invoiced for services rendered during the financial year reported on, net of discounts and value added taxes.

Other operating expenses

Expenses:

Expenses are attributed to the financial year to which they relate.

2.3.5 General disclosures

Main activities

The activities of Stichting Data Bescherming Nederland, established in Zeist, consists mainly of:

- SDBN is a Dutch non-profit foundation (stichting). The Foundation is an interest organization within the meaning of article 3:305a Dutch Civil Code ('DCC)

2.4 Profit appropriation

N/A

2.5 Additional information on balance sheets assets per 31-12-2023

2.5.1 Receivables

Value added tax receivable	31-12-2023	31-12-2022
VAT Q4 2023	104,729	0
VAT Suppletion	2,061	0
VAT Q4 2022	0	67,157
Total receivable value added tax	<u>106,790</u>	<u>67,157</u>

Accounts receivable all have a remaining term to maturity of less than one year, unless stated otherwise.

2.5.2 Cash and cash equivalents

	31-12-2023	31-12-2022
NL76 INGB 0709 6482 27	2,314	5,000
	<u>2,314</u>	<u>5,000</u>

2.6 Additional information on balance sheets liabilities per 31-12-2023

2.6.1 Short-term debts

Other short-term debts

Amount for

	<i>which security has been provided</i>	<i>31-12-2023</i>	<i>31-12-2022</i>
Accrued Liabilities	0	109,104	72,157
	0	109,104	72,157

2.7 Additional information statement of income and expenditure 2023

2.7.1 Income

Received donations and grants

	<i>2023</i>	<i>2022</i>
Third party Funding	1,862,973	1,229,478
	<hr/> 1,862,973	<hr/> 1,229,478

2.7.2 Other operating expenses

Other costs

	<i>2023</i>	<i>2022</i>
Lawyer cost	1,115,902	486,109
ICT	104,346	44,023
D&O Insurance	15,730	15,730
Management Board	204,639	72,806
Supervisory Board	27,356	12,995
Back office and start-up costs	8,950	136,830
PR and book building costs	166,041	210,877
Experts	220,009	246,072
Consultancy and other expenses	0	4,036
	<hr/> 1,862,973	<hr/> 1,229,478

**Signing
Financial
Statements**

Signature

A.N. Ruhaak
Management Board (chair)

w.g.
.....

Signature

N. Lemmers
Management Board

w.g.
.....

Signature

X.G. van Dinten
Management Board (treasurer)

w.g.
.....

Signature

A.H.T. Louwers
Supervisory Board (chair)

w.g.
.....

Signature

C.E.A. Mulligan
Supervisory Board

w.g.
.....

Signature

A.M. Silverleaf
Supervisory Board

w.g.
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