

## FGO

### DSC TERMS AND CONDITIONS AND UNC – APPROACH TO DATA PROTECTION

#### 1 Introduction

- 1.1 This paper is supplemental to the "DSC – Data flows and rights of use" paper dated 26 May 2016.
- 1.2 Data protection and security are addressed at Clause 8 of the DSC Terms and Conditions and in the UNC at TPD Section V5.3.4.
- 1.3 The DSC Terms and Conditions provisions have been updated to reflect developments since the ASA's instigation back in 2005 and the upcoming EU General Data Protection Regulation.
- 1.4 The purpose of this note is to confirm the drafting approach to data protection in the DSC Terms and Conditions and the UNC.

#### 2 Approach in DSC

- 2.1 The latest version of the DSC Terms and Conditions (Version 2.0) is on the JO website.
- 2.2 Clauses 8.1 and 8.2 set out the obligations of a party in relation to the DSC (whether the CDSP or a Customer) when they are acting as a data processor, such as not to transfer data outside the EEA without the data controller's prior written consent, to implement appropriate technical and organisational measures, and to notify the data controller of data breaches.
- 2.3 Clause 8.3 sets out the obligation of a party in relation to the DSC (whether the CDSP or a Customer) when they are acting as a data controller to provide assistance and co-operation to the data processor so that it can comply with its obligations under data protection laws and the DSC.
- 2.4 Clause 8.4 sets out certain warranties provided by a party to the DSC (whether the CDSP or a Customer) where they are acting as a data controller, such as to provide necessary notices to, and obtain necessary consents from, relevant data subjects.

#### 3 Approach in UNC

- 3.1 TPD Section V5.4.3 makes clear the provisions of the UNC are without prejudice to the requirements of the Data Protection Act 1998. No change is proposed to this respect.

#### 4 Actions

- 4.1 Work group to provide comments (if any) on drafting for the DSC.