

## CLAIM CODE COMPLIANCE STATEMENT

April 2023

### Introduction

The Take Back Your Privacy Foundation (the "**Foundation**") subscribes to the principles in the Claim Code 2019 (the "**Claim Code**"). With this compliance statement, the management board and the supervisory board explain how the Foundation complies with the best practice principles of the Claim Code, all in accordance with the "*comply or explain*" principle. This is in accordance with the Claim Code (Principle I).

### Principle I - Compliance and enforcement of the Claim Code

The Foundation adheres to Principle I of the Claim Code.

In accordance with Principle I.1, article 6 paragraph 4 of the Foundation's articles of incorporation ("**Articles of Incorporation**") requires the management board to explain the main features of the governance structure each year, based on the principles contained in the Claim Code, on a publicly accessible part of the Foundation's website. The management board then also explains the extent to which it adheres to the provisions contained in the Claim Code. To the extent that the Foundation does not adhere to the Claim Code, the management board explains why and to what extent it deviates. Any proposed changes to the governance or compliance with the Claim Code will be submitted by the management board to the supervisory board for discussion. The governance and Claim Code compliance information is published by the Foundation in part through this compliance statement, and through the Articles of Incorporation, both of which can be found on the Foundation's website.

### Principle II - Promotion of collective non-profit interests

The Foundation adheres to Principle II of the Claim Code.

The Foundation has no profit motive. The Foundation's statutory objective, actual activities and governance further demonstrate that the Foundation acts in the collective interest of the persons for whose benefit it acts under its statutory objective.

The directors and directly or indirectly connected (legal) persons have no profit motive in the performance of their activities. Article 4.3 of the Articles of Incorporation further prescribes that neither a natural person nor a legal entity may dispose of any part of the assets and income of the Foundation as if it were his or her own. The Foundation has a two-signature system, as is also suggested as a best practice in Principle II.1 of the Claim Code (Article 7 paragraph 1 of the Articles of Incorporation).

Article 17(3) of the Articles of Incorporation requires that any surplus upon dissolution of the Foundation shall be earmarked for a purpose as close as possible to that of the Foundation and will be distributed to the Participants (in accordance with Claim Code II.3).

### Principle III - External funding

The Foundation adheres to Principle III of the Claim Code.

The Claim Code allows Article 3:305a foundations such as the Foundation to raise external funding for the purpose of their operations. The Foundation entered into an agreement ("**funding agreement**") with BPGF Funding I Limited ("**funder**") for the purposes of the TikTok action. Based on the funding agreement, the Foundation has financial resources to pursue its statutory purpose and promote the collective interests of the group it represents.

The individual members of the management board and supervisory board of the Foundation are independent of the funder. Incidentally, this independence is also required by the Articles of Incorporation: Articles 5(2) and 10(2), respectively. The Foundation's lawyers and other external advisors are also independent of the funder.

The management board researched the capitalization, track record and reputation of the funder. The management board and the funder negotiated the various terms of the financing agreement before it was reached.

The Foundation and funder have agreed that the agreement is governed by Dutch law and have made a choice of forum for an arbitration institute based in the Netherlands. The agreement stipulates that control of the litigation and settlement strategy rests with the Foundation. There is also an arrangement that ensures the confidentiality of information belonging to the Foundation and delineates what information the funder has access to. Furthermore, the Foundation points out that the parties have agreed that the funder will provide funding until a final judgment in first instance is rendered, and that prior to that time the funder cannot terminate the funding agreement unless the Foundation is not appointed exclusive representative and barring special circumstances.

The funder provides funding to the Foundation on a so-called "no win, no fee" arrangement. That is, the funder receives compensation only if the Foundation's action is successful. As compensation for the funding provided by the funder, the funder is entitled to receive (i) 22% of the compensation to be paid by the defendant to the group represented in collective action ("**funder fee**"), plus (ii) compensation to the funder for the pre-funded costs of the Foundation's action, where (i) and (ii) together can never exceed a maximum of 25% of the total proceeds (the total compensation to be paid by the defendant). The Foundation will claim in the proceedings that the defendant pay this funder fee and further costs in *addition* to the compensation that goes to the aggrieved group, as these are costs incurred by the Foundation to protect the interests of the group it represents.

The further terms of the funding agreement are confidential. The Foundation and the funder have agreed that the Foundation may, however, provide information to the court if instructed to do so, with the Foundation endeavouring to prevent the other party from accessing this information.

## **Principle IV - Independence and avoidance of conflicts of interest**

The Foundation adheres to Principle IV of the Claim Code.

The management board of the Foundation is composed in such a way that they can operate independently and critically with respect to each other, the supervisory board, the funder and the injured persons. This independence is also explicitly required by Article 5 paragraph 2 of the Articles of Incorporation. There are no close family or similar relationships between management board members and supervisory board members (either within the bodies or between them). Furthermore, the Foundation does not enter into any agreements with natural or legal persons to which one of the members of the management board or supervisory board is affiliated.

## **Principle V - The composition, role and operation of the management board**

The Foundation adheres to Principle V of the Claim Code.

The Foundation has a management board consisting of three natural persons. The management board has sufficient legal and financial expertise enabling the board to perform its activities properly. The management board and the supervisory board always ensure that sufficient legal and financial expertise is available on the management board.

The management board accounts for its policy to the supervisory board at least once a year (Article 14 paragraph 1 Articles of Incorporation). The management board also submits the balance sheet, the statement of income and expenditure and the budget to the supervisory board for approval (Article 15 paragraphs 2 and 7 of the Articles of Incorporation). Finally, the management board must submit potentially far-reaching decisions to the supervisory board for approval (Article 8 paragraph 10 Articles of Incorporation). In addition, the supervisory board may determine by resolution that other decisions it considers far-reaching shall also be submitted to it for approval (Article 8 paragraph 11 Articles of Incorporation).

Finally, in accordance with the Claim Code, the management board maintains a website: [www.stichtingtakebackyourprivacy.nl](http://www.stichtingtakebackyourprivacy.nl). The Foundation posts on this website all information of interest to victims, including the information mentioned in Claim Code V.8.

## **Principle VI - Compensation to directors**

The Foundation adheres to Principle VI of the Claim Code. The Foundation's management board members receive a remuneration that is in reasonable proportion to the nature and intensity of their work. The determination of remuneration and expenses (if any) is made by the supervisory board.

The president of the management board receives a fee of EUR 12,000 per year. If the president spends more than 120 hours per year on his or her duties, he/she is entitled to charge an hourly rate of EUR 200 (ex VAT) for the additional hours worked, up to a maximum of (in total) EUR 25,000.

The other management board members receive a fee of EUR 10,000 per year. If they devote more than 120 hours per year to the management of the Foundation, they are entitled to charge an hourly rate of EUR 200 (ex VAT) for the additional hours worked, up to a maximum of (in total) EUR 20,000.

Except for this compensation, the management board receives no other remuneration for their work.

The above remuneration will also be included with explanatory notes in the annual financial statements of the Foundation. The outline of the remuneration policy has also been published on the Foundation's website through this document.

### **Principle VII - The Supervisory Board**

The Foundation adheres to Principle VII of the Claim Code.

The Foundation has a supervisory board consisting of four natural persons. The composition of the supervisory board is such that the members can operate independently and critically with respect to each other and the management board and with respect to the interests promoted by the Foundation. In addition, the supervisory board has the specific legal and financial expertise required.

The members of the supervisory board receive a fixed annual amount in attendance fees. The president receives EUR 3,000 annually, the other members EUR 2,500. The fees and expenses are determined by the joint meeting of the management board and the supervisory board. Except for this fee, the supervisory board receives no other remuneration for its work.