

Thinking Down the Road . . . or Across an Ocean: Global Legal Notice Considerations

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Opt-in and opt-out class action laws are evolving throughout the world. As a result, legal notice administrators are shifting their focus to the complexities of negotiating and providing global notice to potential class members in multiple countries and in multiple languages. Careful planning is critical. From differences in privacy laws to the important subtleties of dialects and cultural distinctions, if you are tasked with reaching class members residing throughout the world, you should consider these key points first:

Identify “Target Countries”

In a global settlement affecting potential class members around the world, it’s simply not practical to publish notice in every country affected. But here is some good news – it’s not necessary to publish in every country



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affected. Streamline your efforts by first identifying the “target countries” with a significant number of class members. For a consumer product case, hone in on the countries where the company advertised and search for market sales data. For an anti-trust matter where the defendant has class member information, it’s quite easy to determine the relevant locations and languages

of the class. In a securities fraud matter, focus on the exchanges where the securities traded. You may not need to stamp every page in your passport.

How will you identify the class?

The steps you take to identify potential class members will depend not only on the class definition, but also on the type of case. For example, does the defendant have contact information for all or part of the class, and are email addresses available? Is this an indirect purchaser anti-trust case where you need to rely heavily on media? Or is this a securities fraud case where you’ll be working with intermediaries such as banks and brokers who will likely be unfamiliar with class actions and the processes for identifying their customers as potential class members? An experienced legal administrator will be able to advise on the best

way to identify class members, and it will be tailored to the class members, the type of case, and the target countries at issue.

How do you notice a truly global class?

When planning media notice, focus on a mix of local and global media, including local newspapers for each target country and/or international publications that have a global reach and readership. The internet can also be key in getting the word out and increasing the reach and frequency of your class notice. Finally, use social media to your advantage. Facebook and Twitter, for example, are cost-effective ways to supplement your program and reach larger populations of potential class members.

What about local privacy and notice concerns?

Data protection and privacy considerations vary significantly by country. For example, data

privacy and protection laws are often more stringent than our requirements in the U.S. While privacy safe harbors continue to evolve to promote international commerce, it is important to know that any time a U.S. business receives and processes personal data from EU countries, compliance with EU privacy requirements (and potentially with different requirements from the UK in the future) are a must. Give yourself extra time to navigate and plan the transmission of personal data in a global setting.

Cultural Considerations

While it may sound obvious, understanding cultural differences is very important to the success of a global notice plan. Cultural considerations will determine how you craft the text for notices and telephone scripts. Even when using a certified translation company, test your translations within the country, because even the smallest differences across languages,

dialects and regions can impact the clarity of your message, or worse, be offensive. Staff call center teams with native speakers where possible, and train them to be sensitive to local customs and culture. Perform in-country testing of toll-free hotlines because their efficacy can vary depending on local practices and laws. Test mailings to known addresses.

While there is a lot to consider in a global notice program, focus your efforts on target countries and take the time to educate yourself about legal, procedural and cultural differences. Put boots on the ground to perform in-country testing of each phase of your program. The earlier you start, the better. And no matter what, pay particular attention to your translations.

*For more information on the latest developments in global class action settlements, contact **Stephen Cirami**, (stephen.cirami@gardencitygroup.com) www.gardencitygroup.com*