

A Right To Be Forgotten

In May 2014, The European Court of Justice ruled against Google in the case of Mario Costeja Gonzalez who had requested the removal of a link to a 1998 newspaper article about an auction of his foreclosed home for a debt which he had subsequently paid. He initially had attempted to have the article removed by complaining to the Spanish Agency of Data Protection which rejected his claim on the grounds that it was lawful and accurate. Shortly after the decision, Google received 12,000 requests to have personal details removed from its search engine. In essence, the European Court of Justice created a “right to be forgotten”.

Companies House is considering a change of rules to delete the records of dissolved companies after 6 years. Currently, Companies House maintains the records of all UK incorporated firms for 20 years. The proposed change to rules could mean that more than 2.5 million records will be lost. The reason the change is being considered is that a number of complaints have been made by members of the public who believe that retaining and making available information relating to long dissolved companies is inconsistent with EU data protection law. Many have filed complaints with the data protection watchdog, the Information Commissioner’s Office. Just who these complainants are is open to speculation but they may well be directors of failed companies.

Not unsurprisingly, there has been an outcry from a number of parties including journalists, police officers, lawyers and insolvency practitioners as the database provides access to every company incorporated in the UK listing all their directors, shareholders and annual accounts.

Campaigners warn that deleting these records would hamper attempts to track down white collar criminals and money laundering. To a lesser extent, the histories of liquidation, particularly when the same person is involved in multiple cases, should be made readily available to reveal previous failures. It was Companies House information that revealed the past of the three times bankrupt Dominic Chappell who was instrumental in the demise of BHS. Companies House, which is now part of the Department for Business, Energy and Industrial Strategy, has pledged to hold a public consultation about the rule change and it will be interesting to see if the level of public outcry is sufficient to prevent the proposed changes.

Please note that should your clients require any confidential advice regarding any insolvency matter they are welcome to contact Ian, John or Robert. An initial consultation is provided free of charge and without obligation. Also, if you or any of your colleagues require any clarification regarding insolvency law or procedure, please do not hesitate to contact us.