

Deliberation MEDP-2020-001 of January 20, 2020 National Commission for Computing and Liberties Legal status: In force  
Date of publication on Légifrance: Tuesday, February 11, 2020 Deliberation of the office of the National Commission for Computing and Liberties No. MEDP-2020 -001 of January 20, 2020 deciding to make public formal notice No. MED 2019-035 of December 31, 2019 taken against company X

(N° MDMx) The office of the National Commission for Computing and Liberties, meeting on January 20, 2020 under the chairmanship of Mrs Marie-Laure DENIS; In addition to the President of the Commission, Mr Éric PERES, Vice-president ;Having regard to Convention No. 108 of the Council of Europe for the protection of individuals with regard to automatic processing of personal data;Having regard to Regulation (EU) 2016/679 of the European Parliament and of the Council of 27 April 2016 relating to the protection of personal data and the free movement of such data; Having regard to the Penal Code; Having regard to Law No. 78-17 of 6 January 1978 as amended relating to data processing, files and freedoms, in particular its article 20; Having regard to decree n° 2019-536 of May 29, 2019 taken for the application of law n° 78-17 of January 6, 1978 relating to data processing, files and freedoms; Having regard to deliberation n° 2013 -175 of July 4, 2013 adopting the internal regulations of the National Information Commission and Freedoms; Having regard to Decision No. 2019-023C of December 20, 2018 of the President of the National Commission for Information Technology and Freedoms to instruct the Secretary General to carry out or to have carried out a verification mission to the company X; Having regard to inspection report n° 2019-023/1 of March 11, 2019 and n° 2019-023/2 of March 12, 2019; Having regard to decision n° MED 2019-035 of December 31, 2019 taken by the Chairman of the Commission giving formal notice to company X; Adopted the following deliberation: By decision of December 31, 2019, the Chairman of the Commission, on the basis of Article 20 of the law of January 6, 1978 as amended, decided to give company X formal notice to cease, within three months of the notification of the said decision, the breaches noted in Regulation (EU) 2016/679 of the European Parliament and of the Council of April 27, 2016 (hereinafter , the GDPR) relating to personal data from LINK smart meters Y. Pursuant to the last paragraph of II of Article 20 of the law of January 6, 1978 as amended, the President of the CNIL regularly convened the Bureau of the Commission for the purpose of ruling on her request to make her decision public. office was convened for this purpose on January 20, 2020. After deliberation, the office considers that the publication of the formal notice is justified by the nature of the breach of the GDPR, the number of people concerned and the characteristics of the processing put in place. work. Indeed, failing to specifically collect the consent of people for the display of their data by the day, by the half-hour and for the receipt of

personalized advice, the company does not validly collect the consent of the people concerned. publicity of the formal notice also appears necessary in order to remind the organization of its obligations and make customers aware of the rights available to them, in particular the right to choose the way in which data from their meter will be processed. The office believes that it is essential that customers can keep control of such data, which can reveal information about their private life (waking and sleeping times, periods of absence, possibly the number of people present in the dwelling).In addition, the quantity of customers concerned is particularly high since the distribution network operator plans to install 35 million LINKY smart meters by 2021.In this respect, the office considers that due to the number of people concerned, the publicity of the formal notice would make it possible to inform all the customers but also the potential prospects of company X of the existence of these breaches and of the measures that are requested society to take to remedy it. Consequently, the office of the National Commission for Computing and Liberties decides to make public the decision n°MED-2019-035 of the President te of the CNIL giving formal notice to company X. The office recalls that this formal notice is not in the nature of a sanction. As such, no follow-up will be given to the procedure if the organization concerned complies in all respects with the requirements of the formal notice within the time limit. If this is the case, it will be closed, which will also be made public. President Marie-Laure DENIS