

Deliberation 2022-017 of February 17, 2022 National Commission for Computing and Liberties Nature of the deliberation:

Authorization Legal status: In force Date of publication on Légifrance: Thursday April 28, 2022 Deliberation n° 2022-017 of February 17, 2022 approving the rules of binding companies (BCR) "subcontractor" of the WEBHELP group (application for approval no. 20005805)

The National Commission for Computing and Liberties, Seizure by the company WEBHELP in the name and on behalf of the WEBHELP group, on November 28, 2017, of a request for approval of its "subcontractor" BCRs; Having regard to the regulations (EU) 2016/679 of the European Parliament and of the Council of 27 April 2016 on the protection of individuals with regard to the processing of personal data and on the free movement of such data, and repealing Directive 95/46 /CE (General Data Protection Regulation or GDPR), in particular its Articles 47, 57 and 64; Having regard to Law No. 78-17 of 6 January 1978 as amended relating to data processing, files and freedoms; decree n° 2019-536 of May 29, 2019 amended taken for the application of law n° 78-17 of January 6, 1978 relating to data processing, files and freedoms, in particular its article 73; On the proposal of Mrs. Anne DEBET, commissioner, and after having heard the observations of Mr. Benjamin TOUZANNE, commissioner of G government, Makes the following observations: Article 47-1 of the GDPR provides that the CNIL approves binding corporate rules ("BCR") provided that they meet the requirements set out in this article. cooperation described by the working document WP263.rev.01, the documentation relating to the "subcontractor" BCRs of the WEBHELP group was examined by the services of the CNIL as the competent authority, then by the services of two other authorities data protection acting as co-instructors. These BCRs have also been reviewed by the data protection authorities of the member countries of the European Economic Area ("EEA") pursuant to the approval procedure set up by the European Data Protection Board ("EDPB "). The instruction of the "subcontractor" BCRs of the WEBHELP group makes it possible to conclude that they comply with the requirements imposed by article 47-1 of the GDPR and the working document WP257.rev.01, in particular because the aforementioned BCRs:- are made legally binding by an intra-group contract and impose a clear obligation on each participating entity of the WEBHELP group, including their employees, to comply with them (articles 3.1 and 3.2 of the BCRs);- expressly confer rights to the persons concerned allowing them to avail themselves of them as third-party beneficiaries via Article 7 of the BCRs; - meet the requirements imposed by Article 47-2 of the GDPR: a) the structure and contact details of the group of companies and e each of its entities are detailed in the WP265 form which was provided as part of the examination of the file and in Annex 1 of the BCRs; b) the transfers or all the transfers of data, including the categories of personal data, the

type of processing and its purposes, the type of data subjects affected and the name of the third country or countries in question are specified in Article 2.1 and in Annex 11-B of the BCRs; c) the nature legally binding, both internal and external, of the "subcontractor" BCRs is recognized in article 3 of the BCRs as well as in article 3 of the draft intra-group contract provided by the group; d) the application general principles of data protection, including purpose limitation, data minimization, limitation of data retention periods, data quality, data protection by design and data protection by default , the legal basis for the processing nt, the processing of special categories of personal data, measures to ensure data security, as well as requirements for onward transfers to bodies that are not bound by the Binding Corporate Rules are referred to in Articles 4, 5, 6 and 12 of the BCR; e) the right to lodge a complaint with the competent supervisory authority and before the competent courts of the Member States in accordance with Article 79 of the GDPR and to obtain compensation and , where applicable, compensation for breach of binding corporate rules, are provided for in the BCRs, in Articles 7.1 and 7.2; f) the acceptance, by the subcontractor established on the territory of a Member State, of of its liability for any breach of the binding corporate rules by any relevant entity not established in the Union is specified in Article 7.2 of the BCRs, as is the principle according to which the exemption, in all or part of this liability may arise only if the interested party proves that the event giving rise to the damage is not attributable to the entity in question; g) the way in which the information on the binding corporate rules, in particular with regard to the elements mentioned in points d), e) and f) of Article 47.2 of the GDPR are provided to data subjects, in addition to the information referred to in Articles 13 and 14 of the GDPR is specified in Articles 13.1 and 13.2 of the BCR;h) the tasks of any data protection officer, appointed in accordance with Article 37, or any other person or entity responsible for monitoring compliance with the Binding Corporate Rules within the group of companies, or of the group of companies engaged in a joint economic activity, as well as the follow-up of the formation and the handling of complaints, are detailed in Article 10 and in Annex 3 of the BCRs; i) the complaints procedures including the obligation of WEBHELP as a subcontractor to inform the person responsible for processing the complaint or request, are described in article 8 and in annex 6 of the BCRs; j) the mechanisms put in place within the group of companies to ensure monitoring of compliance with the Binding Corporate Rules are detailed in Article 14 and Annex 7 of the BCRs. These mechanisms include data protection audits and methods to ensure that corrective action will be taken to protect the rights of the data subject. The results of these checks are communicated to the person or entity referred to in point h) above and to the board of directors of the company which exercises control over the group of companies (in this case at the registered office of WEBHELP as well as to the team responsible for the protection of

privacy), and are made available to the competent supervisory authority upon request; k) the mechanisms put in place to communicate and record changes to the rules and to communicate these changes to the supervisory authority are specified in Article 15 of the BCRs; l) the cooperation mechanism with the supervisory authority put in place to ensure compliance with the rules by all entities of the group companies is described in article 13.4 of the BCRs. The obligation to make available to the supervisory authority the results of the checks of the measures referred to in point j) above is specified in Article 14 of the BCRs; m) the mechanisms for communicating to the supervisory authority jurisdiction all legal obligations to which an entity of the group of companies is subject in a third country which are likely to have a material adverse effect on the safeguards provided by the binding corporate rules are described in Article 13.3 of the BCRs; n) Finally, Article 11 and Annex 4 of the BCRs provide for appropriate data protection training for staff with permanent or regular access to personal data. The EDPS issued Opinion No. 03 /2022 dated February 7, 2022, in accordance with article 64-1-f of the GDPR. The Commission has taken this opinion into account. This decision may be appealed to the Council of State within two months of its notification. Resolves: Binding corporate rules "subcontractor " presented by the WEBHELP group, in that they provide appropriate safeguards for the transfer of personal data in accordance with Articles 46-1, 46-2-b, 47-1 and 47-2 of the GDPR, are approved. However, before applying these BCRs, it is up to the data exporter located in a Member State, if necessary in collaboration with the data importer, to assess whether the level of protection required by the law of the EEA is respected in the third country of destination, including in situations of onward transfers. This assessment must be carried out in order to determine whether the safeguards established by the BCRs can be respected in practice, taking into account the circumstances of the transfer and the conflicts that may exist between the requirements of the law of the third country and fundamental rights. If this is not the case, the data exporter located in a Member State, if necessary in collaboration with the data importer, must assess whether it can provide for additional measures to ensure a substantially equivalent level of protection. to that guaranteed within the EEA. In the event that the data exporter established in a Member State is unable to take sufficient additional measures to ensure a level of protection substantially equivalent to that guaranteed in the Union, there can be no transfer of personal data to the third country under the BCRs. Therefore, the data exporter is obliged to waive, suspend or terminate the transfer of personal data. The implementation of the approved BCRs does not require specific additional authorization from the European data protection authorities. of the data concerned. In accordance with Article 58-2-j of the GDPR, each data protection authority concerned has the power to order the suspension of data flows addressed to a

recipient located in a third country or to an international organization in the event that the appropriate guarantees provided for by the "subcontractor" BCRs of the WEBHELP group are not respected.

The President Marie-Laure DENIS

ANNEX TO THE DRAFT DECISION

The "subcontractor" BCRs of the WEBHELP group which are approved by this decision cover the following scope:

A. Scope. These "processor" BCRs apply when WEBHELP acts as a processor on behalf of and on the instructions of a data controller established in the European Union who is not an entity of the WEBHELP group (article 2.1 of the BCRs).

B. Member States of the European Economic Union from which transfers are made: Italy, Czech Republic, Germany, France, Austria, Poland, Romania, Portugal, Belgium, Greece, Spain, Netherlands, Sweden, Latvia, Estonia, Denmark, Norway, Finland, Luxembourg (Annex 1 of the BCRs).

C. Third countries to which transfers are made: transfers of personal data are made to WEBHELP group entities located in Algeria, Australia, Canada, China, India, Ivory Coast, Japan, Jordan, Kosovo, Madagascar, Malaysia, Morocco, Mexico, Philippines, Puerto Rico, Senegal, Singapore, South Africa, Suriname, Turkey, United Kingdom (Annex 1 of the BCRs).

D. The purposes of the transfers: the purposes are detailed in appendix 11-B of the BCRs. They depend on the services provided to the controller and correspond to the following activities: Operations and marketing: Activities related to contact centers (e.g. control of end customer satisfaction, prevention and detection of fraud); Netino activities (e.g. moderation and online social interactions); Services related to WPS/WKS activities (e.g. background checks of prospective clients).

E. Categories of data subjects: these categories are listed in appendix 11-B of the BCRs. They depend on the services provided to the controller, and include: WEBHELP employees; WEBHELP customers; customers and prospects of WEBHELP.

F customers. Categories of personal data transferred: the categories are listed in Annex 11-B of the BCRs.