

Deliberation MEDP-2020-002 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 -002 of January 20, 2020 deciding to make public formal notice No. MED 2019-036 of December 31, 2019 taken against company X

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, Mrs. Sophie LAMBREMON, Deputy Vice-President, and 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 April 27, 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 January 6, 1978 as amended relating to data processing, files and to freedoms, in particular its article 20; Considering the decree n ° 2019-536 of May 29, 2019 taken for the application of the law n ° 78-17 of January 6, 1978 relating to data processing, files and freedoms; deliberation no. 2013-175 of July 4, 2013 adopting the regulations of the National Commission for Computing and Liberties; Having regard to decision no. 2019-024C of 20 December 2018 of the President of the National Commission for Computing and Liberties to instruct the Secretary General to proceed or have to a verification mission with company X; Having regard to the control report n° 2019-024/1 of February 21, 2019 and n° 2019-024/2 of May 14, 2019; Having regard to decision n° MED 2019-036 of December 31, 2019 taken by the Chairperson of the Commission giving formal notice to company X; Adopted the following deliberation: By decision of December 31, 2019, the Chairperson 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 two months of the notification of the said decision, the breaches observed in Regulation (EU) 2016/679 of the European Parliament and of the Council of April 27, 2016 (hereinafter, the GDPR) relating to personal data data from LINKY smart meters. Pursuant to the last paragraph of II of Article 20 of the law of January 6, 1978 as amended, the President of the CNIL has regularly convened the office of the Commission for the purpose of ruling on its request to render public its decision. The office met 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 implemented. Indeed, failing to specifically collect the consent of people for the display of their data on a daily basis and the more complete and detailed

display of data on a half-hour basis, the company does not validly collect the consent of the persons concerned. The publicity of the formal notice also appears necessary in order to remind the organization of its obligations and make customers aware of the rights they have ent, in particular that of choosing the way in which the data from their meter will be processed. The office considers that it is essential that customers can keep control of such data, which can reveal information about their and sleeping, periods of absence, possibly the number of people present in the accommodation).In addition, the number of customers concerned is particularly high since the distribution network operator plans to install 35 million here 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 shortcomings and the measures that the company is asked to take to remedy them. Consequently, the office of the National Commission for Computing and Freedoms decides to make publishes decision No. MED-2019-036 of the President 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