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Closing of the sanctioning procedure - 18 October 2018

Register of measures

no. 473 of 18 October 2018

## THE GUARANTOR FOR THE PROTECTION OF PERSONAL DATA

IN today's meeting, in the presence of Dr. Antonello Soro, president, of dott.ssa Augusta Iannini, vice president, of dott.ssa Giovanna Bianchi Clerici and of prof.ssa Licia Califano, members and of dott. Giuseppe Busia, general secretary;

CONSIDERING the art. 1, paragraph 2, of the law of 24 November 1981, n. 689, pursuant to which the laws that provide for administrative sanctions are applied only in the cases and for the times considered in them;

NOTING that the Office of the Guarantor, with deed no. 18782/119880 of 20 June 2018 (notified on the same date by certified email), which must be understood as fully reported here, contested the company XX S.p.A. (hereinafter "XX" or "the company"), with registered office in Rome, XX, Tax Code XX, the violation provided for by articles 157 and 164 of the Code regarding the protection of personal data (legislative decree 30 June 2003, n. 196, hereinafter referred to as the "Code", in the formulation prior to the amendments introduced by legislative decree n. 4 September 2018, n. 101 in force since 19 September 2018);

NOTING that from the examination of the documents of the sanctioning procedure initiated with the contestation of administrative violation it emerged, in summary, that XX failed to respond to a request for information and presentation of documents formulated pursuant to art. 157 of the Code, notified by certified e-mail, concerning the dissemination of the name of a minor reported in a news article:

HAVING ACKNOWLEDGED that the company has not made the reduced payment, as evidenced by the report drawn up pursuant to art. 17 of the law n. 689/1981;

READ the written defense dated 12 July 2018 and the minutes of the hearing dated 24 September 2018, in which it is stated that:

- XX immediately proceeded to remove the disputed article and prepare a reply note to the Guarantor within the terms indicated in the request for information;
- due to a technical problem, the acknowledgment note was not sent even though the transmission of the same by certified

e-mail had been arranged. This was probably due to the blockage of the mailbox, the concomitant malfunctioning of the computers in use at XX and the fact that the management of the PEC was, at the time, entrusted to collaborators of the company while today this management is directly supervised by the director of the newspaper;

- the failure to reply therefore took place in good faith and without XX having the awareness of having engaged in unlawful conduct;

- in this regard, the company presented in the defense briefs a statement by the person in charge of removing the article and sending the acknowledgment note to the Guarantor, who confirmed what was represented by XX;

CONSIDERING that the arguments put forward by XX are suitable for determining the closure of the sanctioning procedure started with the dispute of administrative violation in consideration of the fact that the Company has demonstrated how the failure to send the reply was due to a malfunctioning of the IT system and that the itself promptly proceeded to remove the article in question as soon as it received the dispute, also taking into account the context and the particular circumstances that characterized the processing being reported;

CONSIDERING that it is necessary to file the sanctioning procedure relating to the violation of art. 157 of the Code, referred to in report no. 18782/119880 of 20 June 2018

HAVING REGARD to the documentation in the deeds;

CONSIDERING the law n. 689/1981, and subsequent modifications and additions;

HAVING REGARD TO the observations of the Office formulated by the Secretary General pursuant to art. 15 of the Guarantor's regulation n. 1/2000, adopted with resolution of 28 June 2000;

SPEAKER Dr. Giovanna Bianchi Clerici;

HAS

the filing of the administrative sanction procedure relating to the contestation of the administrative violation referred to in articles 157 and 164 of the Code, in the terms referred to in the justification.

Rome, 18 October 2018

PRESIDENT

Soro

THE SPEAKER

Cleric Whites

THE SECRETARY GENERAL

Busia