

GREEK REPUBLIC PERSONAL DATA PROTECTION AUTHORITY Athens, 27-09-2019 Prot. No.: C/EX/6514/27-09-2019 A  
P O F A S I NO. 33/2019 (Department) The Authority for Personnel Data Protection Haraktira met as a Department  
composition at its headquarters on Wednesday, March 6, 2019 at the invitation of its President, in order to examine the case  
referred to in the present history. Georgios Batzalexis, Deputy President, in the absence of the President of the Authority,  
Constantinos Menoudakos, and the alternate members Panagiotis Rontogiannis as rapporteur and Evangelos  
Papakonstantinou, to replace the regular members Antonios Symvonis and Konstantinos Lambrinoudakis, who, although  
legally summoned in writing, did not attend due to obstacle. Regular member Charalambos Anthopoulos and his deputy  
Grigorios Tsolias, although they were legally summoned in writing, did not attend due to disability. The meeting was attended  
by order of the President, Georgia Panagopoulou, expert scientist - auditor as assistant rapporteur and Irini  
Papageorgopoulou, employee of the Administrative Department of the Authority, as secretary. The Authority took into account  
the following: With the complaint No. C/EIS/5605/25-06-2018, A complained to the Authority that the company Cosmote has  
repeatedly refused to stop promotional actions via email, which he has granted to her as her client. He had repeatedly tried to  
opt out of receiving promotional content messages, but the link in the message was not working. Then from April 2018, with  
repeated e-mails 1-3 Kifisias St., 11523 Athens, Tel.: 210-6475600, Fax: 210-6475628, contact@dpa.gr, www.dpa.gr mail  
requested from the company not to receive emails. However, despite the above actions, he continues to receive  
promotional/advertising emails. The Authority, then, in the context of investigating the above complaint, sent the complained  
company the document No. C/EX/5605-1/06-07-2018. In it, the Authority recalled the provisions of article 11 of Law 3471/2006  
regarding the making of unsolicited communications for the purposes of direct commercial promotion of products or services  
and for any kind of advertising purposes, stressing that it must provide in a clear and distinct manner the possibility for the  
recipient of advertising messages to object, in an easy way and free of charge, to the collection and use of his electronic data,  
and this in every message. Finally, the Authority called on the company to respond to the complaints. With document No.  
C/EIS/7331/11-09-2018, the OTE Group informed the Authority that the contact details of the subscriber/complainant in  
question were legally collected during the conclusion of the contract. It also states that due to a technical problem it was found  
that the "unsubscribe" mechanism was not working properly for subscribers whose data was collected when signing the  
subscriber agreement, while adding that the mechanism was fixed in July 2018 and all the subscribers who had previously  
objected through that mechanism, and a redesign of the relevant process is underway. With documents No.

C/EX/8685/02-11-2018 and C/EX/8690/02-11-2018, the companies of the Group, Cosmote and OTE respectively, were legally summoned to a hearing before the Authority at the meeting of 21-11-2018, as data controllers, to provide further clarifications and to present their views on the complaint in detail. OTE was represented at this meeting by Eleni Gerutsi, lawyer with AMDSA ..., Panagiota Kourtis, lawyer with AMDSA ... and B, ... CRM while the Group's Data Protection Officer C was also present. After receiving a deadline, OTE submitted the memorandum No. C/EIS/9913/10-12-2018, in which it is stated that from 2013 onwards due to a technical error, the deletion from the recipient lists of advertising messages for those recipients who exercised this right through the "unsubscribe" link. It is noted that the alternative mechanisms for exercising this right, i.e. by telephone and by sending 2 e-mail messages, worked. Since 2013, 694 subscribers have successfully removed themselves from the lists by telephone. Once noticed, the error was corrected and OTE proceeded to remove approximately 8,000 subscribers, who had unsuccessfully tried to remove themselves, from the recipient lists. The Authority, after examining all the elements of the file, after hearing the rapporteur and the clarifications of the assistant rapporteur, who left after the debate and before the conference and decision-making, and after a thorough discussion, THINKS ACCORDING TO THE LAW 1 Article 2 of Law 2472/1997 defines that "personal data" is "any information that refers to the data subject". "Data subject" is "the natural person to whom the data refer, and whose identity is known or can be ascertained, i.e. can be identified immediately or indirectly, in particular on the basis of an identification number or on the basis of one or more specific elements characterizing the his physical, biological, mental, economic, cultural, political or social status". In this context, the telephone number of a natural person is personal data, since it can function as an element of indirect identification of its owner, allowing communication with him. It should be noted that, according to Opinion 4/2007 of the working group of Article 29 of the E.U. on the concept of personal data, especially in the operation of electronic services, indirect identification elements, can in some cases sufficiently distinguish a person from others within a certain set, even if his name has not been verified. 2. According to article 2 par. g) Law 2472/1997, as "controller", any natural or legal person who determines the purpose and manner of processing personal data is defined. Corresponding definitions for both personal data and the data controller are provided for in article 4 par. 1 and par. 7 of Regulation (EU) 2016/679 (General Data Protection Regulation - GDPR) which has been implemented from 25/5/2018. 3. In accordance with article 11 of Law 3471/2006 on the protection of personal data in the field of electronic communications, the making of unsolicited 3 communications by any means of electronic communication, without human intervention, for the purposes of direct commercial promotion of products or services and for any kind of advertising

purposes, is only allowed if the subscriber expressly consents in advance. When e-mail contact information lawfully obtained, in the context of the sale of products or services or other transaction, may be used to directly promote similar products or services of the supplier or to serve similar purposes, even when the recipient of the message has not give his consent in advance, provided that he is provided in a clear and distinct manner with the possibility to object, in an easy way and free of charge, to the collection and use of his electronic data and this during the collection of the contact data, as well as in each message, in case the user had not initially objected to this use. 4. Taking into account that the examination of the said complaint resulted in a wider issue of the non-functioning of the option to delete from the list of accepted e-mail messages as a consequence of a technical error, according to what is mentioned in the OTE memorandum, the Authority considers that the said complaint should to be considered in the context of the wider incident and to invite the company to a hearing again. The Authority for the Protection of Personal Data: FOR THESE REASONS Accepts the validity of the complaint referred to in the present history and refers the case for a comprehensive examination with a new call, in which the issue of the technical problem of the "unsubscribe" mechanism in the advertisements will be examined email to opt-out of subscribers from sending future promotional messages. The Deputy President The Secretary George Batzalexis Irini Papageorgopoulou4