

Deliberation 2018-329 of October 11, 2018 National Commission for Computing and Liberties Legal status: In force Date of publication on Légifrance: Thursday, October 18, 2018 Deliberation of the office of the National Commission for Computing and Liberties No. 2018-329 of 11 October 2018 deciding to make public formal notice No. MED 2018-035 of September 25, 2018 issued against the company xThe office of the National Commission for Computing and Liberties, meeting on October 11, 2018 under the chairmanship of Mrs Isabelle FALQUE-PIERROTIN; In addition to the President of the Commission, Mrs Marie-France MAZARS, Deputy Vice-President sat; Having regard to Convention No. 108 of the Council of Europe of 28 January 1981 for the protection of persons at with regard to the automatic processing of personal data; Having regard to Directive 95/46/EC of the European Parliament and of the Council of 24 October 1995 relating to the protection of individuals with regard to the of personal data and the free movement of such data, repealed by Regulation (EU) 2016/679 of the European Parliament and of the Council of 27 April 2016 on the protection of personal data and the free movement of these data; Considering the modified law n° 78-17 of January 6, 1978 relating to data processing, files and freedoms, in particular its articles 45 and 46; Considering the modified decree n° 2005-1309 of October 20, 2005 taken for the application of law n° 78-17 of January 6, 1978 modified relating to data processing, files and freedoms; Considering the deliberation n° 2013-175 of July 4, 2013 fixing the internal regulations of the National Commission of the and freedoms; Having regard to decision no. MED 2018-035 of September 25, 2018 of the President of the Commission giving formal notice to company X. Adopted the following deliberation: By decision of September 25, 2018, the President of the Commission, on the basis of article 45 of the law of 6 January 1978 as amended, decided to give formal notice to company X, located[...], to put an end, within a period of one month from the notification of the said decision, to the failure found to comply with this same law, relating to the use, for commercial purposes, of personal data resulting from processing initially intended for the payment of the supplementary pension. In application of the last paragraph of II of article 45 of the law of January 6, 1978 as amended, the President of the CNIL has regularly convened the bureau of the Commission for the purpose of ruling on its request to make its decision public. The bureau met for this purpose on October 11, 2018. After deliberation, the bureau considers that the publication of the is justified by the nature of the failure observed, namely the processing of personal data incompatible with the initial purpose. Indeed, the office notes, while the company holds the data of the beneficiaries in order to carry out only its mission of general interest of management of the supplementary pension, that the latter also uses this data for commercial prospecting purposes, which constitutes a particularly serious breach.

The very large number of persons concerned reinforces the need to put an end to the practice targeted by the formal notice.

The office also considers that the publication of the formal notice is intended to inform the persons concerned who are likely to be approached from a commercial perspective. Finally, in general, the office wishes to warn professionals in the sector against this bad practice which has already been the subject of several reminders by the AGIRC and ARRCO federations in charge of the control of supplementary pension institutions .Consequently, the office of the National Commission for Computing and Liberties decides to make public decision no. 2018-035 of the President of the CNIL giving formal notice to company X. 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 Isabelle FALQUE-PIERROTIN