Deliberation 2018-331 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 2018-331 of October 11 2018 deciding to make public formal notice no. MED 2018-038 of September 25, 2018 taken against company X

The 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 Convention No. 108 of the Council of Europe of 28 January 1981 for the protection of individuals with regard to automatic processing of personal data; Having regard to Directive 95/46/EC of the European Parliament and of the Council of 24 October 1995 on the protection of individuals with regard to the processing of personal data and on the free movement of such data, repealed by Regulation (EU) 2016/679 of the European Parliament and of the Council of 27 April 2016 on the protection of personal data and the free movement of such data; Having regard to law n° 78-17 of January 6, 1978 as amended relating to data processing, files and freedoms, in particular its articles 45 and 46; Having regard to the decree n° 2005-1 309 of October 20, 2005 as amended, taken for the application of Law No. 78-17 of January 6, 1978 as amended relating to data processing, files and freedoms; rules of procedure of the National Commission for Computing and Liberties; Having regard to decision n° MED 2018-038 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 amended law of January 6, 1978, decided to give formal notice to company X, located[...], to cease within a period of one month from the notification of the said decision, the observed breach of 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. Pursuant to the last paragraph of II of article 45 of the law of n January 6, 1978 as amended, the President of the CNIL 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 office considers that the publication of the formal notice decision is justified by the nature of the breach 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. 2018-038 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