

936-031219

□ Procedure No.: PS/00104/2020

RESOLUTION R/00297/2020 TERMINATION OF THE PROCEDURE FOR PAYMENT

VOLUNTEER

In sanctioning procedure PS/00104/2020, instructed by the Agency

Spanish Data Protection Agency to XFERA MÓVILES, S.A. (YOIGO), seen the

complaint filed by A.A.A., and based on the following,

BACKGROUND

FIRST: On April 1, 2020, the Director of the Spanish Agency for

Data Protection agreed to initiate a sanctioning procedure against XFERA MÓVILES,

S.A. (YOIGO) (hereinafter, the claimed party), through the Agreement that is transcribed:

<<

Procedure No.: PS/00104/2020

935-090320

AGREEMENT TO START A SANCTION PROCEDURE

Of the actions carried out by the Spanish Agency for Data Protection

and based on the following

FACTS

FIRST: On 12/26/2018 it has entry in the Spanish Agency for the Protection of

Details of the claim made by D. A.A.A. (hereinafter, the claimant) against

XFERA MÓVILES, S.A., with NIF A82528548 -commercial name YOIGO- (hereinafter,

the claimed or YOIGO).

The reason for your claim is the conduct of the defendant who, on the occasion of

that the claimant and his spouse subscribe in person at a distributor of

YOIGO the change of ownership of a mobile line from the wife in favor of the claimant,

proceeded to link that phone number to the data of a third party. the claimant

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2/14

states that, as a result of such action, when you access

“miyoigo.yoigo.com” can display the data of the third party -personal data

bills, phone numbers you call-and you'd have the ability to

modify them. He affirms that, in the same way, that third person could, using his

own password, manage the claimant's data.

It adds that, despite the complaints to YOIGO, visits to the establishment

of the distributor and to the claim before the OMIC of *** LOCALITY, on the date of its

complaint has not yet managed to rectify the irregularity, limiting the claimed and

your dealer to hold each other accountable.

Attach to your claim a copy of the copy for the client of the document

called “Change of Headline” that bears the YOIGO logo. In it he appears as

application date 11/29/2018. In the “Point of sale data” section, there is

“***DATA”; as “Data of the current holder” B.B.B. and your NIF; in the section “Data of the

new owner” consists of the name, two surnames and NIF of the claimant, his address, the

date of birth and email address. In the “Services” section the indication:

“YOIGO number that changes ownership ***TELEPHONE.1”. “Type of contract/Rate

current”, “The AUGER 5 GB”. Also included in the document are the twenty digits of

the bank account of the claimant in which the payment of invoices is domiciled and the

direct debit mandate number.

SECOND: A.- In view of the claim, the AEPD, within the framework of the file

E/01044/2019, by means of a letter dated 02/01/2019, transferred the claim to the Data Protection Delegate (DPD) of YOIGO and requested information about the origin of the facts denounced and on the measures that it had adopted to put an end to the irregular situation generated. The document was notified electronically and, as evidenced by the FNMT certificate in the file, it was put to provision in the electronic headquarters on 02/01/2019, the notification being accepted by the one claimed on 02/05/2019.

On 04/05/2019, a letter from the DPD of the claimed party has entered this Agency in which he states that he has "simply received a form for the change of owner and that It is not appreciated what the claim may be. However, it was verified that document that the AEPD notified the entity included the account of events denounced in addition to requesting certain information and, as a document attached, a copy of the change of ownership document was provided. However, the The Agency reiterated the informative request to the DPO of YOIGO in a letter signed on 04/12/2019, made available in the electronic office on that date and whose notification was accepted by the respondent on 04/15/2019. The DPD of the respondent does not responded to the request for information notified by this Agency.

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3/14

Also on 02/01/2019, the claimant was notified of the transfer of his claim to the claimed entity.

In accordance with the provisions of article 65.5 of Organic Law 3/2018, Protection of Data and Guarantee of Digital Rights (LOPDGDD), on the date

06/18/2019 the agreement for admission to processing of this claim was signed.

B.- Under reference E/6279/2019 and under article 67.1 of the LOPDGDD, the

Data Inspection of the AEPD carried out inspection actions that

They ended with the Report of Previous Inspection Actions, signed by the

acting inspector, of which the fragment relative to the result of such

performances:

<<RESULT OF THE INVESTIGATION ACTIONS

On April 12, 2019, the complaint was transferred to XFERA

MOBILES, S.A. (YOIGO), in the proceedings with reference E/01044/2019. I don't know

receive reply.

On June 19, 2019, these proceedings begin.

On July 5, 2019, a request for information was sent to XFERA

MOBILES, S.A. (YOIGO). Notification is done electronically through

notified. According to this notification system, automatic rejection has occurred when

Ten calendar days have elapsed since it was made available.

On August 23, 2019, the complainant sends to this Agency the

following information and statements:

1 Provides a copy of bank movements between July 4, 2018 and July 5,

February 2019 where thirteen charges with the concept "Receipt /yoigo" are displayed

which, as stated, are related to the lines ***TELÉFONO.2 and

***TELEPHONE.1, three of them with value date "05/12/2018", "04/01/2019",

"05/02/2019".

2 Provides a screenshot of MIYOIGO with the following data:

In the "personal information" section, there is: C.C.C. ***NIF.3

The "contact address" section contains:

STREET

a.

b.

***ADDRESS 1

c.

***PHONE.1, ***PHONE.3, ***PHONE.4

In the "lines of your contract" section, the lines appear:

On August 29, 2019, the complainant sends this Agency the

following information and statements:

1. That the company did not solve the change of ownership or that when accessing with the

his wife's password to MIYOIGO appear all the data in the name of

C.C.C.

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4/14

2. That, thanks to friendly conversations with C.C.C., the complainant and his

women were able to unsubscribe.

3. Provide screenshots of conversations with YOIGO:

Whistleblower's message to YOIGO:

Message of December 10, 2018 from the complainant:

Dated December 10, 2018 at 11:41 YOIGO

a.

"Good afternoon, on Thursday 29th from the yoigo store in Majadahonda

I ordered a change of line holder from my wife's B.B.B. DNI ***NIF.2 tel.

***PHONE.1 in my name, A.A.A. DNI ***NIF.1 tel. ***PHONE.2

the store clerk made us sign a paper and made us
photocopy of the DNIs, and we send you by gmail a bank receipt in
that very moment, ... well, someone wrongly pressing a key
has put my wife's phone in the name of a certain C.C.C. DNI ***NIF.3 tel.
***PHONE.3. Since Monday the 3rd, when this person realizes
that they have added a telephone that he has not processed, has
presented a letter to you and calls us to tell us and my wife
sent a complaint via email with a response, but without
solution."

a.

"...Also requesting through this document the immediate restitution of the
B.B.B contract name

to your phone number

***TELEPHONE 1"

a.

reply:

"The change of owner is managed in the store, and they have been the
responsible for the mistake, so they are the ones you have to
correct it. From here we can't do anything. "

a.

reply:

"Good afternoon, are you stating that the store staff is the
that dumps the owner change data to the system? because miss
of afternoons of the store affirms that they give transfer by suitcase and that
they have done well and that they cannot do anything."

a.

"The change of owner is a procedure that is only carried out from the store, therefore they are in charge of taking all the data and carry out the corresponding management, any questions or problems are they who can help you solve it."

a.

write to YOIGO:

"Good morning, I'm at the Yoigo store in Gran Plaza 2.

Majadahonda, this matter has not been resolved and they tell me that it has been a long time days that the contracts have been sent. There is an open incident. ...

could you have the courtesy to follow up and answer me by

Why is the ownership change not resolved correctly?"

a.

On December 10, 2018 at 4:36 p.m., the complainant

On December 21, 2018 at 2:23 p.m., the complainant

Dated December 21, 2018 at 2:26 p.m. YOIGO

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On December 11, 2018, YOIGO responds:

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5/14

reply:

"...as we have previously indicated the change of owner

It is only processed by the store, if you have any problem with the

procedure, you should tell the store to talk to your master to be able to

fix it...">>

Yo

By virtue of the powers that article 58.2 of the RGPD recognizes to each control authority, and according to the provisions of articles 47 and 48 of the LOPDGDD, The Director of the Spanish Agency for Data Protection is competent to initiate and to solve this procedure.

II

The RGPD deals in its article 5 with the principles that must govern the treatment of personal data and mentions among them those of "integrity and confidentiality". The provision provides:

"1. The personal data will be:

(...)

f) Treated in such a way as to guarantee adequate security of the personal data, including protection against unauthorized or unlawful processing, against its loss, destruction or accidental damage, through the application of measures appropriate technical or organizational (<<integrity and confidentiality>>)"

The principle of integrity is developed through articles 32 to 34 of the RGPD framed in section II of chapter IV which is headed "Security of Personal information". Article 32, "Security of processing", provides:

"1. Taking into account the state of the art, the application costs, and the nature, scope, context and purposes of the treatment, as well as risks of probable liability and severity for the rights and freedoms of natural persons, the responsible and the person in charge of the treatment will apply technical and organizational measures appropriate to guarantee a level of security appropriate to the risk, which in its case include, among others:

- a) pseudonymization and encryption of personal data;
- b) the ability to guarantee the confidentiality, integrity, availability and re-permanent silence of treatment systems and services;
- c) the ability to restore availability and access to personal data promptly in the event of a physical or technical incident;
- d) a process of regular verification, evaluation and evaluation of the effectiveness technical and organizational measures to guarantee the security of the treatment I lie.

2. When evaluating the adequacy of the security level, particular account shall be taken of takes into account the risks presented by the processing of data, in particular as a consequence accidental or unlawful destruction, loss or alteration of personal data transmitted, stored or otherwise processed, or the communication or unauthorized access torized to such data.

3. (...)

4. The person in charge and the person in charge of the treatment will take measures to guarantee warrant that any person acting under the authority of the person in charge or the person in charge do and have access to personal data can only process said data following instructions instructions of the person in charge, unless it is obliged to do so by virtue of the Law of the Union or of the Member States. (The underlining is from the AEPD)

The infringement of the principles of integrity and confidentiality of which holds the claimed party liable is typified, respectively, in articles 83.4.a) and 83.5.a) of the RGPD, precepts that establish:

Article 83.4: "The infractions of the following provisions will be sanctioned, in accordance with section 2, with administrative fines of 10,000,000 Eur as maximum or, in the case of a company, an amount equivalent to 4% as maximum of the overall annual total turnover of the previous financial year, opting for the highest amount:

a) the obligations of the person in charge and of the person in charge in accordance with articles 8, 11, 25 to 39, 42 and 43;"

Article 83.5: "The infractions of the following provisions will be sanctioned, in accordance with section 2, with administrative fines of 20,000,000 Eur as maximum or, in the case of a company, an amount equivalent to 4% as maximum of the overall annual total turnover of the previous financial year, opting for the highest amount:

a) The basic principles for the treatment, including the conditions for the consent under articles 5, 6, 7 and 9."

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7/14

Regarding the prescription of infractions, the provisions of

Organic Law 3/2018, on the Protection of Personal Data and Guarantee of the

Digital Rights (LOPDGDD) whose article 73, g) considers a serious infringement, being

its limitation period of two years, "The breach, as a consequence of the

lack of due diligence, technical and organizational measures that would have been

implemented in accordance with the requirements of article 32.1 of the Regulation (EU)

2016/679."For its part, article 72, 1.i) of the LOPDGDD considers a very

serious, being in this case the limitation period of three years, “The violation of the principle of confidentiality established in article 5 of this organic law”.

III

The documentation in the file offers solid evidence that the claimed processed the claimant's personal data in violation of the principle of integrity, article 5.1.f) in relation to article 32.1. b) and c), both of the RGD, when he managed the change of ownership of a mobile line that had requested the claimant, as the new owner, and its until then owner, Ms. B.B.B.

Likewise, there is evidence that, as a consequence of such action, the the principle of confidentiality (article 5.1.f, of the RGD) since they were revealed to a third party, also a client of the claimed party, personal data of the claimant, at least the mobile phone number subject to the change of ownership that the operator linked to that person.

It is proven that on 11/29/2018 the claimant and Ms. B.B.B. they requested before a YOIGO distributor he changed ownership in favor of the first of the line mobile ***PHONE.1 that belonged to the latter. Work in the file copy of the copy for the client of the document, with the YOIGO logo, of change of ownership in which the personal data of the old and the new owner are recorded.

Regarding the claimant, in addition to the NIF, name and two surnames, the postal address and email and the twenty digits of the bank account for the direct debit of the Bill Payment.

In addition, various extremes show that, on the occasion of the change of ownership of the line requested by the claimant, the claimed party did not apply the measures organizational and technical measures necessary to guarantee the security of the data processed. Neither the availability of their data by the claimant nor the capacity of the operator claimed to replace the claimant in the availability of data

that concern you quickly, once the entity was

sufficiently informed of the irregularity.

In that sense it is accredited through the screenshots of the terminal

mobile provided by the claimant regarding the communications he had with

the SAC of YOIGO, that the respondent merely responded repeatedly

-despite the abundant information provided by the claimant- that the

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8/14

irregularities arising from the change in ownership of the line ***TELÉFONO.1 were

dealer competition. Those documents provided by the claimant

They also show that the respondent had knowledge of the facts, at least

from 08/12/2018. Circumstance that, together with the declaration of the claimant in the

date on which you file your claim, 12/26/2018, that the operator has not yet

solved the irregularity, shows that it lacked mechanisms to replace

quickly to the affected in the availability of their data, in short, to guarantee

the integrity of the personal data processed.

On the other hand, it is proven that the claimant provided YOIGO's SAC with the

name, surnames, DNI and telephone number of the third party -also a client of the

operator- to which the mobile line number that is the object of the change request was linked.

ownership. Whether these data were visible to the claimant, as stated, or not,

it seems clear that the claimant's mobile phone number was disclosed to the third party

which was the subject of a change of ownership. As the claimant has explained the third

contacted them by phone on 12/03/2018 to inform them that the line

***PHONE.1 had been linked to your personal data.

IV

Article 58 of the RGPD, "Powers", says in its point 2:

“Each supervisory authority shall have all of the following corrective powers

listed below:

(...)

“i) impose an administrative fine pursuant to article 83, in addition to or instead of
gar of the measures mentioned in this section, according to the circumstances of
each particular case;”

It must be taken into consideration in order to determine the sanction to be imposed.

sion of article 83.3. of the RGPD according to which “If a person in charge or in charge
intentionally or negligently failed to comply, for the same operations

treatment rations or related operations, various provisions of this

Regulation, the total amount of the administrative fine shall not exceed the amount
provided for the most serious offences.

In similar terms, article 29.5. of Law 40/2015, on the Legal Regime

of the Public Sector indicates that “When the commission of an infraction derives necessary
arily the commission of another or others, only the corresponding sanction should be imposed.
corresponding to the most serious offense committed. (The underlining is from the AEPD)

Based on the foregoing, the provisions of articles 83.1 and 83.2 must be observed.

of the RGPD, precepts that indicate:

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“Each control authority will guarantee that the imposition of the administrative fines proceedings under this Article for infringements of this Regulation indicated in sections 4, 9 and 6 are in each individual case effective, proportionate nothing and dissuasive.”

“Administrative fines will be imposed, depending on the circumstances of each individual case, in addition to or as a substitute for the measures contemplated in the Article 58, paragraph 2, letters a) to h) and j). When deciding to impose an admissible fine and its amount in each individual case will be duly taken into account:

- a)
the nature, seriousness and duration of the offence, taking into account the nature nature, scope or purpose of the processing operation in question, as well such as the number of affected parties and the level of damages that they have suffered;
the intent or negligence of the violation;
- b)
- c) any measure taken by the controller or processor to alleviate the damages suffered by the interested parties;
- d) the degree of responsibility of the person in charge or of the person in charge of the treatment, taking into account the technical or organizational measures that they have applied in under articles 25 and 32; b) intentionality or negligence in the infringement tion;
- e) any prior infringement committed by the controller or processor I lie;
- f) and)
- f) the degree of cooperation with the supervisory authority in order to remedy
- g)

g)

Yo)

g)

to the infringement and mitigate the possible adverse effects of the infringement;

the categories of personal data affected by the breach;

the way in which the supervisory authority became aware of the infringement, in

particular if the person in charge or the person in charge notified the infringement and, in such case,

what extent;

when the measures indicated in article 58, section 2, have been ordered

previously against the person in charge or the person in charge in question in relation to

tion with the same matter, compliance with such measures;

adherence to codes of conduct under article 40 or mechanisms of

certification approved in accordance with article 42, and

k) any other aggravating or mitigating factor applicable to the circumstances of the

case, such as financial benefits realized or losses avoided, direct

or indirectly, through infringement.”

Regarding section k) of article 83.2 of the RGPD, the LOPDGDD, article 76, “San-

tions and corrective measures”, provides:

“two. In accordance with the provisions of article 83.2.k) of Regulation (EU) 2016/679, also

may also be taken into account:

The continuing nature of the offense.

a)

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Linking the activity of the offender with the performance of data processing

b)

personal.

c)

The profits obtained as a result of the commission of the infraction.

The possibility that the conduct of the affected party could have induced the commission

d)

of the offence.

The existence of a merger by absorption process after the commission of the investment

and)

fraction, which cannot be allocated to the absorbing entity.

F)

g)

The impact on the rights of minors.

Have, when not mandatory, a data protection delegate.

g)

) Submission by the person in charge or person in charge, on a voluntary basis, to

alternative conflict resolution mechanisms, in those cases in which there are

such controversies between those and any interested party.”

In accordance with the transcribed precepts, and without prejudice to what results from the instruction

of the procedure, in order to set the amount of the administrative fine to be imposed on the

claimed as responsible for individual infractions of articles 5.1.f, of the RGPD

-typed in article 83.5.a) of the aforementioned regulation- and 5.1.f) in relation to article 32.1.b)

and c) -typed in article 83.4.a) of the RGPD-, in an initial assessment, the

following aggravating factors of culpability and/or illegality of the analyzed conduct:

- The circumstance of section b) of article 83.2 RGD. The defendant acted with a serious lack of diligence on the occasion of managing a change of ownership of the line ***PHONE.1 in the name of the claimant. The lack of diligence in complying with the obligations imposed by the data protection regulations to make effective the principle of integrity was also evidenced in the refusal to react to the incident caused by unnecessarily perpetuating in time the injury to the fundamental right of the claimant to guarantee the integrity of their personal data. When the claim that concerns us entered this Agency, on 12/26/2018, YOIGO had not yet dissociated itself from the line of the claimant the data of the third party. And that, despite the fact that, as stated documented, on 12/08/2018 the claimant had already filed his complaint to the company's customer service.

- The circumstance of article 83.2.e) of the RGD, "any previous infringement committed by the person in charge or the person in charge of the treatment", whose application must be made in accordance with to the provisions of article 29.3 of Law 40/2015, on the Legal Regime of the Public Sector, that when citing the criteria that will be considered in the graduation of the sanction refers (section d,) to "The recidivism, by commission in the term of a year of more than one infraction of the same nature when it has been so declared in a final resolution in via administrative". It is worth mentioning the sanctioning resolutions issued by this Agency in the procedures PS/385/2019, signed on 02/07/2020, in which the acts sanctioned occurred on 11/05/2018, and in PS/237/2019, signed on 11/19/2019, in which the facts sanctioned occur on 08/06/2018.

-The circumstance described in section f) of article 83.2., RGD. The entity has not responded or to the request for information requested in which it was urged to adopt

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measures to put an end to the incidence -with the clarifications that are made in the Fact

Second- nor to the request made in the course of the Investigative Actions

previous.

- The circumstance described in article 83.2.k) of the RGPD in relation to the article 76.2.b) of the LOPDGDD: the link between the activity of the offender and the treatment of personal information. Due to its very nature, the activity that the respondent carries out as telecommunications operator implies the processing of personal data of its customers.

Therefore, based on the foregoing,

By the Director of the Spanish Data Protection Agency,

HE REMEMBERS:

FIRST: START A PUNISHMENT PROCEDURE against XFERA MÓVILES, S.A., with NIF A82528548, for the alleged infringement of articles 5.1.f) and 32.1.b) and c) of the GDPR typified, respectively, in articles 83.5.a) and 83.4.a) of the Regulation (EU) 2016/679.

SECOND: APPOINT D.D.D. as instructor. and secretary, to E.E.E., indicating that any of them may be challenged, where appropriate, in accordance with the provisions of the Articles 23 and 24 of Law 40/2015, of October 1, on the Legal Regime of the Sector Public (LRJSP).

THIRD: INCORPORATE to the disciplinary file, for evidentiary purposes, the claim filed by the claimant and his documentation, the documents obtained and generated by the General Subdirectorate for Data Inspection during the investigation phase, as well as the report of previous Inspection actions.

FOURTH: THAT for the purposes provided in art. 64.2 b) of Law 39/2015, of 1

October, of the Common Administrative Procedure of the Public Administrations, the sanction that could correspond would be 55,000 euros (fifty-five thousand euros) without prejudice to what results from the instruction.

FIFTH: NOTIFY this agreement to the respondent granting it a term of hearing of ten business days to formulate the allegations and present the tests you deem appropriate. In your statement of arguments, you must provide your NIF and the procedure number that appears in the heading of this www.aepd.es

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12/14

document.

If within the stipulated period it does not make allegations, this initial agreement may be considered a resolution proposal, as established in article 64.2.f) of Law 39/2015, of October 1, on the Common Administrative Procedure of the Public Administrations (hereinafter, LPACAP).

In accordance with the provisions of article 85 of the LPACAP, in the event of that the sanction to be imposed was a fine, it may recognize its responsibility within of the term granted for the formulation of allegations to this initial agreement; it which will entail a reduction of 20% of the sanction to be imposed in the present procedure. With the application of this reduction, the sanction would be established at 44,000 euros, resolving the procedure with the imposition of this sanction.

Similarly, you may, at any time prior to the resolution of the present procedure, carry out the voluntary payment of the proposed sanction, which

which will mean a reduction of 20% of its amount. With the application of this reduction, the sanction would be established at 44,000 euros and its payment will imply the termination of the procedure.

The reduction for the voluntary payment of the sanction is cumulative to the one It is appropriate to apply for the acknowledgment of responsibility, provided that this acknowledgment of responsibility is revealed within the period granted to formulate arguments at the opening of the procedure. The pay volunteer of the amount referred to in the preceding paragraph may be made at any time prior to resolution. In this case, if it were appropriate to apply both reductions, the amount of the penalty would be established at 33,000 euros.

In any case, the effectiveness of any of the two reductions mentioned will be conditioned to the withdrawal or renunciation of any action or resource in via administrative against the sanction.

In the event that you choose to proceed with the voluntary payment of any of the amounts indicated above (44,000 euros or 33,000 euros) must do so cash by depositing it in account number ES00 0000 0000 0000 0000 opened on behalf of the Spanish Agency for Data Protection at CAIXABANK Bank, S.A., indicating in the concept the reference number of the procedure that appears in the heading of this document and the reason for the reduction of the amount to which welcomes

Likewise, you must send proof of payment to the General Subdirectorate of Inspection to proceed with the procedure in accordance with the quantity entered.

The procedure will have a maximum duration of nine months from the the date of the start-up agreement or, where applicable, of the draft start-up agreement.

Once this period has elapsed, it will expire and, consequently, the file of

performances; in accordance with the provisions of article 64 of the LOPDGDD.

Finally, it is pointed out that in accordance with the provisions of article 112.1 of the LPACAP, there is no administrative appeal against this act.

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13/14

Sea Spain Marti

Director of the Spanish Data Protection Agency

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: On June 11, 2020, the claimant has proceeded to pay the

SECOND

sanction in the amount of 33,000 euros making use of the two planned reductions in the Startup Agreement transcribed above, which implies the recognition of the responsibility.

THIRD: The payment made, within the period granted to formulate allegations to the opening of the procedure, entails the waiver of any action or resource in via administrative action against the sanction and acknowledgment of responsibility in relation to the facts referred to in the Initiation Agreement.

FOUNDATIONS OF LAW

Yo

By virtue of the powers that article 58.2 of the RGPD recognizes to each authority of control, and as established in art. 47 of the Organic Law 3/2018, of 5 December, of Protection of Personal Data and guarantee of digital rights (in hereinafter LOPDGDD), the Director of the Spanish Agency for Data Protection

is competent to sanction the infractions that are committed against said Regulation; infractions of article 48 of Law 9/2014, of May 9, General Telecommunications (hereinafter LGT), in accordance with the provisions of the article 84.3 of the LGT, and the infractions typified in articles 38.3 c), d) and i) and 38.4 d), g) and h) of Law 34/2002, of July 11, on services of the society of the information and electronic commerce (hereinafter LSSI), as provided in article 43.1 of said Law.

II

Article 85 of Law 39/2015, of October 1, on Administrative Procedure Common to Public Administrations (hereinafter, LPACAP), under the rubric "Termination in sanctioning procedures" provides the following:

"1. A sanctioning procedure has been initiated, if the offender acknowledges his responsibility, the procedure may be resolved with the imposition of the sanction to proceed.

2. When the sanction is solely pecuniary in nature or fits impose a pecuniary sanction and another of a non-pecuniary nature but it has been justified the inadmissibility of the second, the voluntary payment by the alleged perpetrator, in any time prior to the resolution, will imply the termination of the procedure, except in relation to the replacement of the altered situation or the determination of the compensation for damages caused by the commission of the infringement.

3. In both cases, when the sanction is solely pecuniary in nature, the competent body to resolve the procedure will apply reductions of, at least 20% of the amount of the proposed sanction, these being cumulative each. The aforementioned reductions must be determined in the notification of

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initiation of the procedure and its effectiveness will be conditioned to the withdrawal or

Waiver of any administrative action or recourse against the sanction.

The reduction percentage provided for in this section may be increased
regulations.

According to what was stated,

the Director of the Spanish Data Protection Agency RESOLVES:

FIRST: TO DECLARE the termination of procedure PS/00104/2020, of
in accordance with the provisions of article 85 of the LPACAP.

SECOND: NOTIFY this resolution to XFERA MÓVILES, S.A. (YOIGO).

In accordance with the provisions of article 50 of the LOPDGDD, this

Resolution will be made public once it has been notified to the interested parties.

Against this resolution, which puts an end to the administrative procedure as prescribed by
the art. 114.1.c) of Law 39/2015, of October 1, on Administrative Procedure

Common of the Public Administrations, the interested parties may file an appeal
contentious-administrative before the Contentious-administrative Chamber of the
National Court, in accordance with the provisions of article 25 and section 5 of
the fourth additional provision of Law 29/1998, of July 13, regulating the
Contentious-Administrative Jurisdiction, within a period of two months from the
day following the notification of this act, as provided in article 46.1 of the
aforementioned Law.

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