

Deliberation 2018-288 of July 5, 2018 National Commission for Computing and Liberties Legal status: In force Date of publication on Légifrance: Thursday July 19, 2018 Deliberation of the office of the National Commission for Computing and Liberties

no. 2018-288 of July 5, 2018 deciding to make public formal notice no. MED-2018-023 of June 25, 2018 taken against company X

The office of the National Commission for Computing and Liberties, meeting on July 5, 2018 under the chairmanship of Mrs. Isabelle FALQUE-PIERROTIN; Also present were Mrs. Marie-France MAZARS, Deputy Vice-President, and Mr. Eric PERES, Vice - President; Having regard to Convention No. 108 of the Council of Europe of 28 January 1981 for the protection of individuals with regard to the automatic processing of personal data; Having regard to Directive No. 95/46/EC of the European Parliament and of the Council of October 24, 1995 on the protection of individuals with regard to the processing of personal data and on the free movement of such data; Having regard to Law No. 78-17 of January 6, 1978 as amended relating to , to files and freedoms, in particular its articles 45 and 46; Considering the decree n ° 2005-1309 of October 20, 2005 modified taken for the application of the law n ° 78-17 of January 6, 1978 modified relating to the information technology, files and freedoms; Having regard to deliberation n° 2013- 175 of July 4, 2013 setting the internal regulations of the National Commission for Computing and Liberties; Having regard to decision no. MED-2018-023 of June 25, 2018 of the President of the Commission giving formal notice to company x. following: By decision of June 25, 2018, the President of the Commission, on the basis of Article 45 of the law of January 6, 1978 as amended, gave formal notice to company x, located [...], to cease under a period of three months for the breach observed in this same law, relating to the obligation to obtain the consent of persons to the processing of their data, in particular geolocation, for the purposes of advertising targeting. Pursuant to the last article 45-II paragraph of the amended law of January 6, 1978, the President of the CNIL regularly convened the Bureau of the Commission for the purpose of ruling on her request to make its decision public. The Bureau met for this purpose on July 5, 2018. After having deliberated, the bureau u considers that the publication of the formal notice decision is justified by the seriousness of the breach. Company X relies on a technology called SDK in order to collect personal data via smartphones and to carry out mobile advertising campaigns with people. During its investigations, the CNIL found in particular that the company collects, without obtaining the consent of people, their geolocation data. Such processing constitutes a particular risk with regard to privacy in that it reveals people's movements and their lifestyles. The office stresses that advertising is also

justified by the particularly large number of people likely to be impacted by the treatment implemented by company X while the SDK is integrated into dozens of mobile applications and a significant part of the population is in possession of a smartphone. In this regard, the office notes that it was noted by the CNIL delegation that 5,962,383 distinct advertising identifiers had been collected by the company; each of them making it possible to identify the smartphone of a person who has downloaded the application from one of its partners. The office also considers that the publicity of the formal notice is based on the need to put the persons concerned able to keep control of their data. This objective can only be achieved by ensuring the highest level of transparency on the collection of data, in particular geolocation, and the purpose of the processing, implemented by the company X. Finally, the office wishes to raise the awareness of professionals in the sector on this difficulty while the collection of personal data for advertising targeting purposes, in particular from the places frequented by people, is experiencing strong growth. The office notes, in fact, that the use of the SDK is part of an ecosystem involving several players, namely the publishers of mobile applications and the advertising customers, whom it is essential to alert to the issues of the protection of data. Consequently, the office of the National Commission for Computing and Liberties decides to make public the decision n°MED-2018-023 of the President of the CNIL giving formal notice to company X. The office recalls that this formal notice does not have the character 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. from their publication. President Isabelle FALQUE-PIERROTIN