

Deliberation 2018-343 of November 8, 2018 National Commission for Computing and Liberties Legal status: In force Date of publication on Légifrance: Friday, November 09, 2018 Deliberation of the office of the National Commission for Computing and Liberties

n° 2018-343 of November 8, 2018 deciding to make public the formal notice

no. MED-2018-042 of October 30, 2018 taken against company X

The office of the National Commission for Computing and Liberties, meeting on November 8, 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 Regulation (EU) 2016/679 of the European Parliament and of the Council of 27 April 2016 relating to 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; 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 data processing, files and freedoms; Considering the 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-2018-042 of October 30, 2018 of the President of the Commission giving formal notice to company X. Adopted the following deliberation: By decision of October 30, 2018, the President of the Commission, on the basis of Article 45 of the law of 6 January 1978 as amended, gave formal notice to company X, located [...], to put an end within a period of three months to the breaches observed in this same law , in particular that relating to the obligation to obtain the consent of individuals to the processing of their geolocation data for the purposes of profiling and advertising targeting. the President of the CNIL regularly convened the office of the Commission for the purpose of ruling on its request to make its decision public. The office met for this purpose on November 8, 2018. After deliberation, the office considers that the advertising of the The formal notice decision is justified by the characteristics of the breaches. 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. It also receives real-time auction offers for advertising space from third-party applications, with which it has no commercial link. During its investigations, the CNIL noted in particular that the company collects geolocation data through its SDK. The company also retains, for further processing, geolocation data contained in the advertising auctions it receives from applications that may or may not have installed its SDK. In these two

cases, the consent of the persons is not validly obtained. Such processing constitutes a particular risk with regard to private life in that it reveals the movements of persons and their lifestyle. The office emphasizes that the advertisement is also justified by the massive number of people likely to be impacted by the processing implemented by company X given the fact that a significant part of the population is in possession of a smartphone. Indeed, the SDK is integrated with about twenty mobile applications and allows the collection of geolocation data of people approximately every five minutes. In this regard, the delegation noted that 5,150,201 advertising identifiers had been collected directly by the company. In addition, the advertising space auction system enabled the company to collect more than 42,934,160 advertising identifiers and the corresponding geolocation data from more than 32,708 applications. The office also believes that the publicity of the formal notice is based on the need to put the persons concerned in a position to retain 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 company X. The technicality of these systems, and in particular the advertising auctions, makes this processing largely unknown to the general public. Finally, the office wishes to raise awareness among professionals in the sector of this difficulty while the collection of personal data for profiling and advertising targeting purposes, in particular from 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-2018-042 of the President of the CNIL giving formal notice to the 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. The President Isabelle FALQUE-PIERROTIN