

Deliberation SAN-2023-004 of March 20, 2023 National Commission for Computing and Liberties Legal status: In force Date of publication on Légifrance: Tuesday April 18, 2023 Deliberation of the restricted committee no. SAN-2023-004 of March 20, 2023 relating to injunction pronounced against the company FREE by the deliberation No. SAN-2022-022 of November 30, 2022

The National Commission for Computing and Liberties, meeting in its restricted formation composed of Mr. Alexandre LINDEN, President, Mrs. Christine MAUGÜÉ, Mr. Bertrand du MARAIS and Mr. Alain DRU, members; Having regard to Regulation (EU) 2016/679 of the Parliament and of the Council of April 27, 2016 relating to the protection of personal data and the free movement of such data; Having regard to Law No. 78-17 of January 6, 1978 as amended relating to data processing, files and freedoms , in particular its articles 20 and following; Considering the decree n ° 2019-536 of May 29, 2019 taken for the application of the law n ° 78-17 of January 6, 1978 relating to data processing, files and freedoms; deliberation no. 2013-175 of July 4, 2013 adopting the internal regulations of the National Commission for Computing and Liberties; Having regard to deliberation no. SAN-2022-022 of November 30, 2022 adopted by the committee restricted to the against the company FREE; Having regard to the information transmitted by the company FREE on December 15, 2022; After having deliberated during the meeting of March 16, 2023, adopted the following decision: I. FACTS AND PROCEDURE¹. The FREE company (hereinafter "the company") is a subsidiary of the ILIAD group which is a fixed telecommunications operator.² Between October 2018 and November 2019, the National Commission for Computing and Liberties (hereinafter "the CNIL" or "the Commission") received complaints against the company . The complainants notably reported difficulties encountered in exercising their rights of access or erasure.³ By decision of November 30, 2022, notified on December 7, 2022, the restricted committee, among other provisions, ordered the company to provide a response to the complainants, accompanied by a penalty payment of five hundred euros (500) euros per day of delay at the end of a period of one month following the notification of the deliberation of the restricted formation.⁴ The injunction was precisely formulated in these terms: "pronounce against the company FREE an injunction to provide an exhaustive response to the requests of Messrs [...] (complaint n° 19014037), [...] (complaint n° 19015831), [...] (complaint no. 19016618) and [...] (complaint no. 19005208) which specifies the identity of the data broker from which it obtained the data of the data subjects."⁵ On December 15, 2022, the company sent a letter to the chairman of the restricted committee, responding to the injunction.II. REASONS FOR THE DECISION⁶. The Restricted Committee notes that it emerges from the company's response that, for the requests of Messrs [...] and [...], the identity of the broker who had

provided it with the data was communicated to the complainants in response to their requests .7. With regard to the requests of Messrs. [...] and [...], FREE told them that it no longer had the identity of the broker from which it had acquired the data concerning them, as it had not kept the delivery files of the data in question. The company thus clarified to the complainants that their data "had been transmitted by a data broker, a company whose activity is to collect personal data from different sources before reselling them to customers, such as Free. ", without mentioning the identity of the broker concerned.8. Although the Restricted Committee considers that the mere communication to the complainants of general information on the type of entity that provided the data does not constitute a satisfactory response to their request for a right of access, it notes that the destruction of the files of delivery relating to the personal data of the complainants makes it materially impossible to provide the identity of the brokers, which it acknowledges. It notes that the company had not disclosed this material impossibility during the penalty proceedings.9. It follows from the foregoing that the company justifies that it is no longer able to fully comply with the injunction.10. Consequently, there is no need to liquidate the penalty. make public, on the CNIL website and on the Légifrance website, this deliberation which will no longer identify the company by name at the end of a period of two years, the starting point being the publication of deliberation no. ° SAN-2022-022 of November 30, 2022. President Alexandre LINDEN