

The President



Examination of the case:

Paris,

20 FEB, 2020

Our ref.: MLD/JLI/KKR/SGE/DAU/CM193756

Case no. 19006155

(to be referenced in all correspondence)

Dear Mr. President,

This is further to the different exchanges that took place between the CNIL's services and the Data Protection Officer (hereinafter "DPO") of [REDACTED] in the framework of the examination of the complaint lodged by [REDACTED], transmitted to the CNIL by the data protection authority in Luxembourg ("Commission nationale pour la protection des données" ou "CNPD") according to provisions of Article 56.1 of the General Data Protection Regulation ("GDPR").

[REDACTED] had lodged a complaint with his national data protection authority against [REDACTED] concerning the difficulties encountered in the exercise of his right to object to receive direct marketing by text messages.

The breaches identified through the several exchanges between the CNIL and the DPO of [REDACTED] lead me, in agreement with the other European data protection authorities concerned by the processing for direct marketing purposes, to issue reprimands to [REDACTED], in accordance with the provisions of Article 58.2.b) GDPR.

First of all, I note the deletion of [REDACTED] telephone number from [REDACTED]' customer database has been duly made on September 12, 2018, as initially indicated by your services to the latter. I understand that the sending of direct marketing SMS on September 19, 2018 results from a processing carried out on September 13, 2018 by [REDACTED]' provider, on the latter's prior instructions. Mobile telephone numbers being erased within 48 to 72 hours, I take note that [REDACTED] now informs individuals exercising their right to object about the delay for such right to be effectively taken into account.

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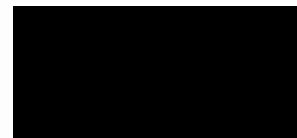
In addition, [REDACTED] complaint led to examine the "Charter for data protection" of the website <[REDACTED]> and thus revealed the fact that the latter systematically, for any requests to exercise rights, required to provide a copy of an identity document in breach of Article 12.6 GDPR and Article 92 of the French decree no. 2005-1309 of 20 October 2005 as amended. Nevertheless, I note that [REDACTED] has undertaken to adjust its procedure for requiring an identity document solely under specific circumstances, such as, for instance, a request submitted from an email address diverging from the one registered in the customer's personal space or a request requiring the transmission of numerous personal data. I also note that you will enable data subjects to exercise their rights directly from their personal space as from the second quarter of 2020.

Furthermore, I would remind that you have to, where appropriate, update regularly information in order to meet the objective of transparency, accessibility and clarity of the information delivered to individuals (Article 12.2 GDPR). In this regard, the information on appropriate safeguards in the event of data transfer outside the European Union delivered at the bottom of [REDACTED] direct marketing e-mails appears incomplete. Nevertheless, I note that [REDACTED] has answered making no such transfers to this day. Consequently, I draw your attention to the need to delete such reference for not misleading [REDACTED]'s customers and accurately reflecting the processing carried out. Furthermore, I notice that [REDACTED] has finally generally taken into account the remarks made by the CNIL on the need to improve the information delivered to individuals at the registration stage and when sending direct marketing messages (in particular by specifying the contact addresses for exercising rights).

Finally, within the examination of this complaint, I understand on the one hand that [REDACTED] offers to data subjects the opportunity to object to direct marketing emails at the collection stage of their data and when receiving direct marketing messages. On the other hand, I note that [REDACTED] does not transfer customer data to its partners for electronic direct marketing purposes.

The CNIL reserves the right, in case of new complaints, to use of all the other powers conferred to it under the law of January 6th, 1978 as amended and the GDPR.

Yours Sincerely,



This decision may be appealed before the French State Council within a period of two months following its notification.