



Laga Newsflash

Google's GDPR fine: relevant for all companies processing personal data

The French Data Protection Authority (CNIL) imposed a EUR 50 Million fine on Google for violating GDPR rules. As this precedent is very much relevant for every company active in personal data processing, Laga aims to highlight specific action points in this regard.

On 21 January 2019, CNIL imposed the first *significant* administrative fine since GDPR's entry into force on 25 May 2018. This noteworthy decision is not only important for multinationals operating with big data but applies to all personal data processing activities, since the violations relate to some of GDPR's core principles; these are often misunderstood and incorrectly applied.

What is the Google case about?

CNIL imposed an administrative fine on Google for several GDPR breaches:

- Lack of transparency and adequate information;
- Lack of valid consent for ad personalisation purposes.

a) Lack of transparency and adequate information

CNIL was of the opinion that Google did not comply with its information obligations. The relevant information was not easily accessible to users, since it was spread over several documents. Google's users need to undertake several action steps (up to six in some cases) before being able to obtain

important information (e.g. all information on data collected for personalised ads and geo-tracking). Moreover, the information is not always clear or comprehensive. Users are therefore unable to fully understand the extent of Google's processing of their personal data.

b) Valid consent was not obtained

CNIL also concluded that Google did not obtain valid consent under GDPR rules, since (i) users are not sufficiently informed (see "Lack of transparency and adequate information" point above) and (ii) obtained consent was neither "specific" nor "unambiguous". Google only asked its users to give general consent for all mentioned processing purposes and all processing purposes mentioned in its privacy policy. Such practice does not allow data subjects to give their consent specifically for each individual processing purpose and is therefore not in line with GDPR.

The Vectaury case

On 30 October 2018, CNIL had already issued a GDPR violation decision regarding the company "Vectaury", an SME active in advertising technology. As Vectaury did not obtain valid consent (same principles of Google case apply), CNIL requested the company to implement some specific measures.

Impact on your business

It is clear that CNIL aims to set an example in relation to data protection violations by multinationals and highlight the impact thereof on consumers. However, the important principles of CNIL's decision do need to be taken into account, as these are applicable for every company processing personal data.

GDPR does not solely provide formal obligations for companies to comply with. Companies really need to think about their personal data processing and the consequent impact on individuals' privacy.

In practice, we recommend the following concrete action points:

- The transparency principle means that information must be easily accessible in a clear and comprehensive way. Companies should draft and implement privacy policies by considering these principles. As such, information should not be spread across too many documents
- Companies should assess whether or not they should obtain the data subject's consent. Other legal grounds may be more tailored to certain processing activities (e.g. completion of a contract)
- Companies should not ask data subjects to provide general consent for all processing activities or for the processing activities mentioned in the privacy policy (e.g. "I accept the privacy policy"). Consent needs to be specific and unambiguous, allowing data subjects to decide for each individual processing purpose

With its extensive experience in data protection work, Laga's IP/ICT team is readily available to provide more information on this topic.

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