



The CNIL pursues a privacy protection path in the face of new technologies

In July this year, the French supervisory authority, the Commission nationale de l'informatique et des libertés (CNIL), published its Fifteenth Annual Report, for 1994.

Structure

The Report gives a comprehensive and detailed picture of CNIL's activities in 1994. It consists of three parts:

1. A statistical overview and examples of some major decisions and court cases;
2. The most important opinions and decisions regarding the increasing use of informatics in everyday life, including international developments;
3. Presentation of various cases on a sectoral basis.

Registration

In 1994, CNIL received 36,721 applications for declaration of processing which brought the total number of registered processing operations to 368,421.

There were few unfavourable opinions for the public sector declarations, or refusals to deliver an acknowledgement of receipt for declarations from the private sector - three in the public and four in the private sector. These were the cases where proposed processing would have constituted an infringement of the provisions of the France's Data Processing, Data Files and Individual Liberties Act 1978.

The CNIL also adopted three new simplified rules for declaration of processing which do not manifestly infringe privacy or liberties of individuals, making a total of 40 simplified declarations. These rules allow data users to file with the CNIL a simple declaration that their processing conforms to these pre-set standard rules. In 1994, 76% of declared processing were filed with the CNIL on the basis of the simplified rules.

The three new simplified rules concern:

- maintaining of an electoral file in the framework of the European Union
- use of telephone logging system in hospitals, hotels etc., provided to customers for billing purposes
- use of telephone logging system in the work place.

The CNIL is keen to develop its policy on declarations similar to the model adopted in the EU Data Protection Directive, which is in any case based on the French system. Thus, the CNIL plans to put more emphasis on *follow-up control* and *enforcement*, rather than prior checking of submitted declarations.

Complaints and requests from the public

In 1994, the CNIL had almost 4,000 requests from the public. However, not all of these contacts were complaints. Many of the individuals asked for advice and information, some very specific and some of a more general nature. This figures indicated a definite trend of increase in the advisory role of the CNIL, which benefits not only individuals but also data users.

Complaints constituted less than half (1,805) of all the requests. In terms of various sectors, the complaints concerned, in descending order:

- direct marketing and acquisition of prospective clients (532)
- banks (277)
- employment relations (256)
- post and telecommunications (108)
- the property sector (82).

Changes in the law on medical research

A new law of 1 July 1994 enlarged the CNIL's competence in the area of medical research. This new legislation came as a response to a need to reconcile the use of personal health data for research purposes and respect for patients' privacy.

The law provides strict conditions for carrying out and functioning of medical research and allows for waiving professional secrecy in favour of researchers. On the other hand, rights of individuals are explicitly defined and procedures for scientific validation are strengthened.

Finally, the CNIL has seen an increase in its powers given by the new legislation. Under the



old system, an application for a declaration of processing for medical research purposes was the subject of the CNIL's preliminary opinion. Now, the CNIL is given a power of authorisation. A consultative committee will be established within the Ministry of Research with the aim of examining requests for processing of health data for medical research purposes and delivering an opinion to the CNIL.

Informatics and everyday life

The CNIL has had several opportunities to examine many cases where new applications of automated processing techniques raised issues of protection of individual's privacy.

Telecommunications

In the changing and developing field of telecommunications, the CNIL has expressed concern on many issues, such as calling line identification, "pay per view" television and telephone logging.

Also, a much used practice of marketing calls by way of automated pre-recorded message to subscribers, often selected at random was condemned by the CNIL. These automated calls were also made to telephone subscribers who were either ex-directory or were included in one of the official France Télécom lists (*liste orange*) as having opted out from various marketing calls - the equivalent of Telephone Preference Service in the UK. Around 30% of all complaints and

requests for advice from individuals concerned this particular practice.

Controls on the streets

A sophisticated and multifaceted road pricing system and video surveillance also attracted the CNIL's attention. The latter was a particular controversial issue since the "Pasqua law" of December 1994 stripped the CNIL of competence regarding video surveillance in public places and private places opened to the public (see PL&B Newsletters October 1994, p.17 and December 1994, p 10).

Computers and social control

The CNIL expressed concern over an increase in surveillance practices associated with the use of informatics. Some sections of the population are particularly vulnerable to these practices. Many of the cases the CNIL dealt with in 1994 involved privacy issues relating to employees, individuals with illnesses and special health risks, low income groups, and foreigners.

Commission nationale de l'informatique et des libertés, 15e rapport d'activité 1994, pp. 506, price: 175F, La Documentation française, 29-31 quai Voltaire, 75344 Paris Cedex 07, France, ISBN: 2-11-003337-1.

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