

# Summary Final Decision Art 60

Complaint

Compliance order

EDPBI:FR:OSS:D:2020:164

## Background information

Date of final decision:	24 November 2020
Date of broadcast:	4 December 2020
LSA:	FR
CSAs:	BE, ES
Legal Reference:	Conditions for consent (Article 7), Transparent information, communication and modalities for the exercise of the rights of the data subject (Article 12), Information to be provided where personal data are collected from the data subject (Article 13), Information to be provided where personal data have not been obtained from the data subject (Article 14), Records of processing activities (Article 30)
Decision:	Compliance order
Key words:	Advertising, Consent, Consumer protection, Data subject rights, Direct marketing, E-commerce

## Summary of the Decision

### Origin of the case

Customers and prospects filed complaints against the controller, claiming that the controller did not comply with its obligations to ensure the right to access, the right to object and to erase their personal data. The company at issue is conducting telephone and email marketing campaigns to sell insurance policies using prospect lists purchased from its partners. To date, these marketing activities reached around two million individuals.

### Findings

The LSA found that the controller's partner companies collected data subjects' consent to use of their data for marketing purposes by the third parties using only one box to be ticked for at least two separate processing of personal data: participation in a competition and consent to receiving

marketing messages from partners. Moreover, the LSA concluded that the controller is not able to prove that each of the individuals targeted by its marketing campaign has given individually their consent. The LSA found that the controller, contacting individuals by phone, did not inform them about their rights, in particular the right to object. In addition, the LSA found that although the controller keeps record of its processing activities, the record lacks some obligatory information.

Therefore, the LSA found that the controller acted in breach of Articles 4(11), 7(1), 7(2), 13 and 30 GDPR.

## Decision

The LSA gave a formal notice to the controller.

Within three (3) months from the notification of the decision, the controller was ordered to: stop conducting marketing operations targeting individuals whose consent has not been validly collected; be able to demonstrate that the data subject's consent has indeed been collected in advance by the controller's partners; fully inform the data subjects in accordance with Article 13 GDPR; hold a record of processing activities containing all required indications; justify compliance with all of the above requests within the deadline.