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French Authorities Fine Google €50 Million for Violations of the GDPR

In its first enforcement action under the European Union's General Data Protection Regulation (GDPR), the CNIL, France's data protection authority, announced on Monday that it was imposing a €50 million penalty against Google for violating GDPR transparency obligations and consent requirements in connection with the processing of user personal data.

Coupled with other recent enforcement activity, CNIL's action signals that EU regulators are focusing their energies, at least initially, on companies that make use of their customers' personal data to develop targeted advertising. Indeed, the United Kingdom's privacy regulator brought a GDPR-related enforcement action last year against AggregateIQ, which the agency alleged had processed personal data to develop targeted, pro-Brexit political ads. CNIL's action also shows that in these early days, absent a developed body of regulatory precedents defining the contours of the GDPR's reach, initial regulatory decision-making may often seem somewhat *ad hoc*. For example, while CNIL conceded that Google had provided a significant volume of data processing information to its users, it nonetheless asserted that the company's disclosures were insufficiently centralized and overly "generic and vague." Similarly, though Google had procured consents from users for ad personalization, CNIL determined that such consents were insufficiently specific and inadequately informed. Finally, CNIL provided only minimal explanation for its calculation of the €50 million penalty.

A further important takeaway from the Google action concerns the proper venue for GDPR enforcement actions. The regulatory scheme contemplates that where a company has located its "main establishment" for processing EU personal data in a particular EU country, that country's privacy regulators will oversee the company's GDPR compliance. However, because Google had not set up such an establishment, CNIL asserted that the GDPR authorized *any* EU member state, including France, to bring enforcement actions against Google. Thus, companies bound by the GDPR should consider assigning authority for the processing of EU personal data to an EU subsidiary or entity that would serve as its "main establishment," to avoid uncertainty over the jurisdiction to which the company will be accountable.

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