

QWANT: the CNIL considers that the search engine is processing personal data and reminds it of its legal obligations

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As early as 2019, the CNIL had qualified the data processed by QWANT as personal data and not anonymous data. As a result of this reclassification, QWANT published a new privacy policy relating to this data in 2020 to inform users.

The context

QWANT is a French company that launched its search engine in 2013. Due to the strong privacy protections it implemented, the company believed that the search engine did not collect any personal data when users searched, including in the context of displaying advertisements related to the subject of the search. The data used in the context of the sale of the search engine's advertising space, operated via MICROSOFT, was therefore presented as anonymous.

On March 15, 2019, the CNIL received a complaint against the company QWANT, on the grounds that the personal data collected would constitute personal data, and not anonymous data, and that therefore the regulations on personal data were not respected.

On the basis of this complaint, the CNIL carried out two inspections of the company in 2019, which were followed by numerous exchanges with the company. These investigations made it possible to establish that the personal data that QWANT transmitted to the company MICROSOFT were essentially technical (such as the truncated IP address or the hashed IP address for the constitution of an identifier generated by QWANT), so that MICROSOFT could:

- display contextual advertisements, related to the user's search, that do not by design require tracking of the user's activities over time, nor do they populate a profile;
- count the number of advertising displays;
- offer the display of its own search results in the event that QWANT is not able to offer sufficient results, in number or quality.

During the investigations, QWANT told the CNIL that it considered that the technical means it had put in place had the effect of anonymizing the data collected before it was transmitted to MICROSOFT. As a result, QWANT considered that it did not transmit personal data. As such, the search engine's privacy policy, in its initial version, stated that user queries were immediately "anonymized."

At the end of in-depth analyses carried out in 2019, given the highly technical nature of the elements of the case and the fact that it was the first device of its kind examined by the CNIL, its president considered, despite the measures deployed by the company QWANT, that in particular with regard to the recommendations and case law relevant at the time of the facts, the data transmitted to MICROSOFT could not be described as anonymous. In 2020, QWANT modified its privacy policy accordingly.

Given the cross-border nature of the processing, the CNIL, as the lead authority, shared its conclusions in 2020 with its European counterparts in order to discuss the analysis and the most appropriate corrective measure.

After numerous exchanges with its counterparts, the CNIL issued a reminder of the legal obligations against the company in light of these findings dating from 2019.

The content of the reminder of legal obligations

In her decision, the President of the CNIL recalled that, despite the strong precautions taken in 2019 to avoid the re-identification of individuals, the dataset transmitted to MICROSOFT was not anonymised but only pseudonymised.

However, in its privacy policy at the time of the controls, the company QWANT indicated that the data was anonymous. Since it considered that the regulations on personal data were not applicable, it did not mention the advertising purpose of the transmission of data to MICROSOFT, as well as the legal basis used by this processing. Finally, until 21 February 2020, the Italian and German versions of the privacy policy did not contain the same information as the French and English versions.

Also, on the day of the inspection, the information contained in the privacy policy regarding the processing of data to MICROSOFT was inaccurate and incomplete. The company therefore failed to comply with its obligations of transparency and information, provided for in Articles 12 and 13 of the GDPR.

Why a reminder of legal obligations and not a fine?

The reminder of legal obligations is one of the corrective measures that the President of the CNIL can pronounce with the formal notice and the warning, but which is not in the nature of a sanction.

The choice of this measure appeared justified because the desire of the company QWANT was to develop a search engine that would consume no or very little personal data, by using contextual advertising and not behavioral advertising and therefore with a much lower level of intrusiveness. Indeed, the data transmitted to MICROSOFT, which was essentially technical, was not kept in order to establish the user's advertising profile. There was therefore no tracking of user activity over time.

In this, although the CNIL *ultimately considers* that the data transmitted to MICROSOFT was pseudonymous, it stresses that many technical measures have been deployed by the company in order to reduce the risk of re-identification as much as possible. It was an initial analysis error on the qualification of the data transmitted

that led to the breaches committed, without intentionality on the part of the company QWANT, to evade the provisions of the GDPR.

Then, the President of the CNIL noted that the company changed its privacy policy as soon as it exchanged with the CNIL on October 22, 2020:

- to mention the transmission of "pseudonymous" data to MICROSOFT;
- to explicitly state the legal basis and advertising purpose of the data transmission to MICROSOFT.

In addition, QWANT has also updated its privacy policy in the different languages during 2020, so that the translations all include the same information.

Finally, the President of the CNIL took into account the good faith of the company and its cooperation with the CNIL throughout the procedure.

These elements led the president to consider that a reminder of the legal obligations towards the company constituted a proportionate corrective measure.

Reference text

- [Article 58-2-b\) of the GDPR](#)

For more information

- [Anonymization of personal data](#)
