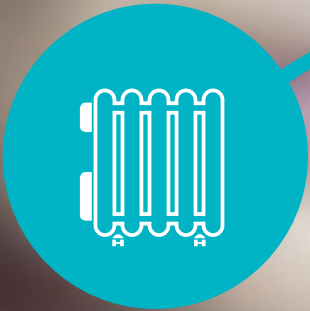
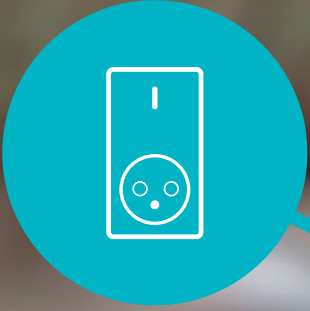


# COMPLIANCE PACKAGE

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# SMART METERS





## COMPLIANCE PACKAGE ON SMART METERS

The compliance package is a new tool for regulating personal data, encompassing the following:

- **A working method:** It allows the CNIL to fully involve the stakeholders of a business sector (professionals primarily, but also, where appropriate, public authorities and concerned users) in order to report on good or bad practices, problems encountered, the demands of users, the specificities of the sector in question and the questions raised in the field.

- **A new regulatory method for the CNIL:** The aim is to build sectoral standards, examining the processing of personal data in the sector from various angles in order to define:

- a set of rules and best practices, adapted using existing legal means such as simplified standards, single authorisa-

tions, recommendations, recognition of compliance with professional rules, but also practical fact sheets developed to clarify and give concrete examples.

- operating procedures and organisational processes related to the establishment of CNIL recognized personal data protection officers, binding corporate rules (BCR), privacy seals, etc.

This reference framework has a twofold objective:

- **Ensuring the legal security of professionals** by providing practical guidance on how to comply with specific texts and operating procedures.

- **Simplifying formalities** as much as the current law allows by using waivers, simplified standards and single authorisations.

### ● SMART METERS

In recent years, there has been a rapid growth of communicating objects, which are increasingly becoming a part of the everyday life of consumers. The energy sector is particularly affected by the massive influx of communicating products and innovative services.

To function properly, these new products and services may be required to collect and process a very large amount of personal data, such as data on the energy consumption of appliances in the home. The CNIL therefore sought to support industrialists in

the sector, as early as the creation stages of these new products and services, by issuing a number of recommendations.

#### Recommendation on smart meters

Expected to be installed in over 35 million homes by distribution system operators, smart meters call for particular vigilance in order to protect the privacy of data subjects. These devices are capable of collecting the load curve, whose thorough analysis can yield substantial information about the lifestyles of data subjects (i.e., at what time >>>



»» they wake up and go to bed, periods of absence, number of people in the home, etc.).

Insofar as their installation will be mandatory, the French Data Protection Authority conducted in-depth discussions over the last two years with the stakeholders in order to better regulate the processing carried out by these meters. At the end of these discussions, it adopted a recommendation establishing the framework and the conditions under which people's energy consumption data may be collected and processed.

[Deliberation no. 2012-404 of November 15, 2012 on recommendations for processing detailed energy consumption data collected by smart meters.](#)

**Innovations in energy management in homes: CNIL-FIEEC partnership**

As part of a partnership between the CNIL and the Federation of Electrical, Electronic and Communication Industries (FIEEC), a working group was created to identify the principles that should regulate the collection and processing of energy consumption data by devices installed by users called "downstream electric meters" (for example, directly on the circuit breaker panel, via an outlet on the meter, directly in an electrical outlet).

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*The Federation of Electrical, Electronic and Communication Industries (FIEEC) represents the interests of trade unions and professional organisations whose members belong to energy, automation, electricity, electronics, digital technology and consumer goods sectors. These sectors include nearly 3,000 companies, employing almost 420,000 people and generate more than €98 billion in turnover, including 46% from exports.*

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FIEEC's mission is to promote and defend the interests of its members; propose reforms, anticipate and participate in regulatory developments; support companies and clarify the enforcement of technical and legal rules; offer its members privileged contacts with French and European policy makers; and bring together stakeholders in the sectors of its members to provide a single contact person for the Administration.

**FINDINGS OF THE WORKING GROUP**

The objective of this working group was to produce a publication of best practices intended to boost the innovation of industries in the sector by integrating the protection of personal data as early as possible in the definition of new services, which is called "privacy by design".

This work relates only to the processing of data collected through devices or software installed:

- Outside the meter infrastructure, i.e., downstream electric meters (e.g. directly on the circuit breaker panel or via an outlet on the meter for collecting accurate energy consumption data).

As a result, data processing operations carried out directly via electric meters are excluded from the present work;

- Upon the request and under the control of individuals in order to provide them specific services (B to C).

To facilitate the compliance of these devices with the French Data Protection Act, three working assumptions were identified, corresponding to the three scenarios that may be encountered by professionals in the sector. Intended for professionals, these guidelines specify for each type of processing: the intended purposes, the categories of data »»»



»» collected, the retention period of such data, the rights of data subjects, the security measures to be implemented, and the recipients of the information.

They are designed to be extended to the European level, both by the FIEEC and by the CNIL, to enable stakeholders to position themselves on a European if not global market, making data protection a factor of competitiveness.

The adopted working method is primarily focused on the user, which is a decisive trust factor for consumers so that they opt for these innovative products.

These guidelines are representative of the understanding, at this point in time, of the technologies and associated practices, and they shall be reviewed annually. It is therefore important to underline their flexible and progressive nature.

### OVERVIEW

#### **French Data Protection Act**

*The French Data Protection Act of January 6, 1978 as amended applies to all cases where personal data are processed:*

- *Processing of personal data means any operation (collection, recording, storage, modification, retrieval, consultation, use, communication, interconnection, destruction, etc.) related to personal data.*

- *Personal data means any information relating to a natural person identified or who can be identified, directly or indirectly.*

*Thus, all data, which alone or in combination with others, may be linked to an identified or identifiable user, a customer or a subscriber (temperatures, electricity or gas consumption, amount of hot water used, condition of electrical appliances, etc.) constitute personal data. Personal data are therefore not merely nominal data (besides surname and first name).*

*Furthermore, even if the data may in practice relate to several people belonging to the same household, the CNIL finds that these are personal data insofar as they are linked to an identified individual (the subscriber).*

*The processing of personal data shall comply with the French Data Protection Act. Any person wishing to process personal data is subject to a number of legal obligations (informing data*

*subjects about such processing, obtaining their consent, setting-up procedures for the exercise of the right to access and delete data, establishing security measures, completing prior formalities with the CNIL, etc.).*

*The French Data Protection Act does not apply to processing in the course of purely personal activities (such as the processing described in Sheet 1) or when the processed data are anonymous. In other words, it does not apply when the data cannot be linked directly or indirectly to a natural person by isolating a home.*

*To determine the mechanism to be implemented for obtaining anonymous data, the service provider shall examine the possibility of re-identifying the individuals from the data obtained. It is therefore necessary to take into account the volume of data, their accuracy, the number of data subjects, etc. Anonymisation mechanisms shall therefore be defined case by case. For example, the aggregation of data for reconstructing the load curves obtained from ten independent homes with the same profile may be considered anonymous. Similarly, an average energy consumption profile built on the basis of the load curves average is also construed as the processing of anonymous data.*



## ● SCOPE OF THE 3 PATTERNS OF INNOVATION

### ● Scenario No. 1 “IN → IN”: management of data collected in the home without communication to the outside.

In this scenario, the data collected in the home are under the sole control of the user and are not intended to be collected or reused by a third party, which can correspond to two cases:

1. Purely “IN → IN” applications: several products or solutions communicate with each other without transferring data to the outside.
2. Applications which involve a transfer of data from the home without such data being transmitted to third parties for reuse. This is the case of applications for which the data:
  - remain confined within communication networks fully under the user’s control (such as Wi-Fi or other local networks); or
  - circulate in public telecommunication networks (such as ADSL, fibre, GSM).

### ● Scenario No. 2 “IN → OUT”: management of data collected in the home and transmitted outside.

In this scenario, the data collected:

- leave the home to be retransmitted to one or more service providers, whether this transfer is materially carried out by the data subject or by the service provider itself;
- are processed by the service provider to offer a service to the data subject, without however triggering an action in the home.

### ● Scenario No. 3 “IN → OUT → IN”: management of data collected in the home and transmitted outside to allow the remote control of certain appliances within the home.

In this scenario, the data:

- leave the home to be retransmitted to one or more service providers, whether this transfer is materially carried out by the data subject or by the service provider itself;
- are processed by the service provider to offer a service to the data subject implying an interaction with the home in view of the energy management of the appliances within the home.

## ● GLOSSARY

● **Data subject:** the data subject is the individual to whom the data that are collected and processed are linked. This individual may also be identified in the fact sheets as the user, subscriber, customer or tenant, according to the case.

● **Service provider:** the service provider is the one that has directly entered into contract with the data subject. As data controller, it shall comply with all the obligations under the French Data Protection Act (notably completing prior formalities with the CNIL, informing or obtaining the consent of the data subject, implementing suitable security measures).

● **Data processor:** the data processor is the one to which the service provider has subcontracted the implementation of all or part of the service. It collects and processes data only on behalf of the original service provider. Its only obligation is ensuring the security and confidentiality of the collected data.





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- **Business partner:** the business partner is the one to which the service provider transmits personal data. It collects and processes data for its own account. Therefore, it is also a data controller for the data transmitted to it. In this respect, it shall comply with all the obligations under the French Data Protection Act (notably completing prior formalities with the CNIL, informing or obtaining the consent of the data subject, implementing suitable security measures).
  - **Third party:** the third party is any person other than the data subject, whether it is a service provider, processor or business partner.

### ● MODEL CLAUSE FOR INFORMING AND OBTAINING THE CONSENT OF DATA SUBJECT

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The information collected via this device by \_\_\_\_\_ (Please state the identity of the data controller) is electronically processed for \_\_\_\_\_ (Please state the purpose).

(Pursuant to Articles 39 et seq. of the amended French Data Protection Act No. 78-17 of January 6, 1978) you may request the disclosure and, where appropriate, the correction or deletion of your personal data, by contacting the department \_\_\_\_\_ (Please mention the name and contact details of the concerned department).

You may also, for legitimate reasons, object to the processing of your personal data.

If you agree to your data being transmitted to \_\_\_\_\_ (Specify the categories of recipients) for \_\_\_\_\_ (Please state the purpose: for example, "receiving sales offers by email"), please check the box below:

(This box must not be pre-selected)

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