

Whistle-blowing hotlines in France

American multinational corporations doing business in France that have set up whistle-blowing hotlines should be aware that these hotlines run afoul of French law. Before implementing such hot-lines, we suggest you obtain further information about the potential conflict between such corporate policies and French regulation.

The French Data Protection Authority, the Commission Nationale de l'Informatique et des Libertés (« CNIL »), acting on requests from two corporations, has denied authorization to operate such hotlines.

The CNIL based its decisions on the very broad first article of the 1978 law that established the agency.

That section states "data-processing systems are designed to serve man. They must respect their fundamental rights and freedoms, the right to privacy, the right to human identity, the individual and public freedoms". The CNIL's view is that a whistle-blowing hotline is an institutionalized system of accusation and denunciations of fellow employees, and as such is not consistent with the human rights the 1978 act is intended to protect.

The CNIL adds that the hotlines are an unduly burdensome and intrusive way of achieving the stated goals. It asserts that there are other legal means to ensure compliance with company regulations and the law (information and training of the staff so as to make them aware of their rights and obligations, auditing and controls made by the statutory auditors as regard to the financial and accounting watch, referrals of wrongdoing to public authorities). The burden of the risk of libelous denunciations is too high, says the CNIL.

If you would like more guidance or information about French regulations in this area, please contact us at newdevelopment@kahnlaw.com, or contact directly one of our partners (www.kahnlaw.com).

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