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The inspection of this company was initiated on the basis of 41 complaints about the sending of unsolicited commercial messages. The subject of this inspection was therefore the assessment of compliance with the obligations arising from Act No. 480/2004 Coll., on certain information society services, regarding the sending of business communications by electronic means. The commercial messages contained offers of gifts in the form of consumer goods, alcohol, toys, etc. together with links to websites where online stores offering these goods are operated. As part of the pre-control activities, it was already established that the domain names from which commercial messages are sent are registered either to a defunct company (without a successor) or to natural persons that the Office could not identify.

The Office thus focused on online stores that are promoted by the commercial messages sent, i.e. on entities for whose benefit the commercial messages are sent. At the time of the commercial communications in question, the operator of the online stores in question was the controlled person. The office called on the inspected person to document their consent to the sending of business communications, or to document the fact that the addressees are customers of the inspected person. However, the controlled person did not respond despite repeated calls and did not provide the relevant cooperation, for which a fine of 25,000 CZK was imposed.

With regard to the fact that the consent of the addressees to the sending of business communications was not proven by the audited person, the Office found a violation of § 7, paragraph 2 of Act No. 480/2004 Coll., while again based on public law objective responsibility, i.e. responsibility for the consequences, when in relation there is no need to examine the culpability of the resulting unlawful state with respect to the legal entity. In general, the Office also noted a violation of § 7 paragraph 4 letter b), as none of the business communications in question contained information about the sender on whose behalf the communication is being made.

The inspected person did not object to the inspection report. In the given case, the Office will initiate the relevant proceedings on the offence.

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