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On the basis of 14 initiatives, the Office carried out an inspection regarding compliance with Act No. 480/2004 Coll. in connection with sending commercial messages. The complainants all stated that they did not give the sender consent to send commercial messages, they are not his customers and, with the exception of one complainant, they are not even registered users. The audited person stated that the addressees of the business communications in question registered for the loyalty program through the online store even without making a purchase. However, the said registrations should have taken place even before the introduction of the two-step verification of consent (the so-called double opt-in). The inspected person was therefore unable to prove the consent given, as the e-mail address could have been entered by a person other than the e-mail user. The inspectors thus discovered that the inspected person had violated the obligations set out in § 7, paragraph 2 of Act No. 480/2004 Coll., that is, to use electronic contact details for the purpose of disseminating commercial communications by electronic means only in relation to users who have given their prior consent. Given that the commercial communications were properly marked, they contained the identification of the sender and a valid address to which it is possible to directly and effectively send information that the addressees do not wish to continue sending commercial communications, the inspectors did not find a violation of § 7, paragraph 4 of Act No. 480/2004 Coll. For this action, the Office imposed a fine of CZK 36,000 on the inspected person. The inspection was carried out by the unsolicited communications department. Recommendation: In this context, the Authority recommends that an entrepreneur who obtains consent to send business communications by filling out e-mail addresses in the registration or other form on its website, sent a request for confirmation of consent to the entered e-mail address, i.e. to introduce double opt-in. Verifiable consent is usually provided only by confirming this request (for example, by clicking on the provided link or sending a reply). In order to prove the granting of consent by a specific user of the e-mail address, the entrepreneur is also obliged to keep information about the granting of this consent (logs).

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