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Svea Collection AB

Diary number:

IMY-2022-1292

Date:

2022-06-30

Decision after supervision according to the Debt Collection Act

- Svea Inkasso AB

The Privacy Protection Authority's decision

IMY states that Svea Inkasso AB, in violation of Section 4 of the Debt Collection Act (1974:182), has exposed debtors to an undue pressure by in debt collection claims that are aimed at private persons state that failure to pay within the deadline means that the debtor can get a payment note.

The Privacy Protection Authority assumes that Svea Inkasso AB takes measures to remedy the pointed out deficiency.

The case is closed.

Statement of the matter

On April 28, 2022, the Swedish Privacy Agency (IMY) carried out an inspection at Svea Inkasso AB (hereafter Svea Inkasso). The inspection was carried out with reason for IMY routinely visiting large players who have debt collection permits.

The purpose of the inspection was to gain an understanding of how the business is conducted and to review Svea Inkasso's routines for the debt collection procedure. Issues raised at the inspection included, among other things, any changes in the business, the debt collection procedure initially, the design of the debt collection claim, use of digital mailboxes and sending of debt collection claims via SMS, handling of disputes and selection of form of process, amortization plan and follow-up. At the time of the inspection was also done

a follow-up to the previous supervisory cases dnr 1016-2014, dnr 271-2015 and dnr

1940-2014.

Justification of the decision

Applicable regulations

Debt collection operations must be conducted in accordance with good debt collection practices (section 4 of the Debt Collection Act). What ever

is a good collection oath appears from §§ 5-11 of the Collection Act, of the general advice

"Application of the Debt Collection Act" and IMY's practice in debt collection matters.

Mailing address:

Box 8114

104 20 Stockholm

Website:

[www.imy.se](http://www.imy.se)

E-mail:

[imy@imy.se](mailto:imy@imy.se)

Phone:

08-657 61 00

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Wording in debt collection claims about payment notice

Applicable regulations, etc.

According to Section 4 of the Debt Collection Act, debt collection activities must be carried out in accordance with good debt collector, i.e. the debtor must not be caused unnecessary damage or inconvenience or exposed for undue pressure or other undue collection action.

## Background

The debt collection requirements that Svea Inkasso uses in its operations contain the following information stated "This claim is sent according to Section 6 of the Debt Collection Act which states that legal action may not be taken before demands according to Section 5 of the Debt Collection Act have been sent. If you haven't paid no later than DATE we can take legal action. You then risk increased costs and can also receive a payment notice."

According to what Svea Inkasso stated during the inspection, Svea Inkasso's formulation aims at the debt collection claim in terms of "...and can also get a payment notice" to give the debtor information about what may happen in the event of non-payment, i.e. that the debtor at a later stage risks receiving a payment notice in the event of the debt is determined by a default judgment or by a ruling from the Swedish Enforcement Agency.

In addition to the wording in the debt collection claim, the debtor can via "My pages" or by call Svea Inkasso to get more detailed information about, among other things, how and at what stage a payment remark arises.

## The Swedish Privacy Protection Authority's assessment

Svea Inkasso provides information about payment notices in its debt collection requirements according to the following: "You then risk increased costs and may also receive one payment note."

IMY believes that there are generally no obstacles for debt collection companies to i debt collection requirements inform that the debtor risks receiving a payment notice at missing payment. With particular regard to the fact that a payment note can get serious consequences for debtors, for example regarding the possibility of taking out loans, rent residence and the like, it is however important that such information is objectively correct. The must therefore be clear to the debtor at which stage a payment notice can will be registered.

If a debtor has not paid within the time prescribed on the debt collection claim, a

debt collection company the opportunity to bring an action in court through an application for summons or apply for a payment order with the Swedish Enforcement Agency to try to get paid for the claim. Both of these procedures are associated with costs which the debt collection company has the right to demand compensation from the debtor. The risk of increased costs for the debtor are thus a direct consequence of non-payment if the debt collection company chooses to use the applicable procedures to get paid for claim. The information about that in the current debt collection claim - "You then risk getting increased costs..." - thus correspond to real conditions.

A payment notice, on the other hand, presupposes, in cases where the claim is directed against one private person, that the debt has first been established through a default judgment or through a ruling from the Enforcement Directorate in the case of a payment order. One

A payment notice is thus not a direct consequence of non-payment partly presupposes that the debt collection company applies for summons or alternatively applies for payment order partly that the debt has subsequently been established.

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IMY states that the information that Svea Inkasso provides in its debt collection claims addressed to private individuals if the payment note does not contain any clarifications about at which stage a payment notice may be imposed.

By stating this information in the same sentence as the risk of being imposed increased costs, is instead rather given the appearance that the payment note would be a direct one consequence of non-payment, which is incorrect when the debtor is a private person. This may result in the debtor paying, without checking the claim more closely the debt collection claim for fear of otherwise receiving a payment notice.

By designing the information in the debt collection claim, in cases where the claim is directed against a private person, in a way that gives the appearance that the payment note can be a direct one as a result of the debtor not paying on time, IMY considers that the debtor is subjected to undue pressure and that the current information in Svea Inkasso's debt collection claim is therefore in conflict with good debt collection oath and § 4 of the debt collection act.

IMY assumes that Svea Inkasso AB reformulates and clarifies the information in its debt collection claims directed against private individuals in this part.

#### Miscellaneous

What has otherwise emerged in the case does not prompt any comments from IMY.

This decision has been taken by the unit manager Catharina Fernquist after a presentation by lawyer Karin Ekström.

Catharina Fernquist, 2022-06-30 (This is an electronic signature)

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#### How to appeal

If you want to appeal the decision, you must write to the Swedish Privacy Protection Authority. Enter in the letter which decision is being appealed and the change you are requesting. The appeal must have been received by the Privacy Protection Authority no later than three weeks from the day you was informed of the decision. The Privacy Protection Authority forwards the appeal to Administrative Court in Stockholm for review, if the authority does not change the decision itself in the way you have requested. The Chancellor of Justice may also appeal the decision to safeguard public interests. However, the time for appeals to the Chancellor of Justice is counted from it day the decision was announced.

You can e-mail the appeal to the Privacy Protection Authority if it does not contain

any privacy-sensitive personal data or information that may be covered by

secrecy. The authority's contact details appear on the first page of the decision.