

UOOU-04552/21

The inspection at this company was initiated on the basis of 12 complaints from the same complainant. Commercial messages were repeatedly sent to the addressee via e-mail messages and contained an offer of light bulbs, light sources and other similar types of goods on sale or at a discount, together with a link to the relevant website of the online store where the goods were offered.

The inspection revealed that the addressee was not a customer of the inspected person, but a customer of another company, which, however, shares a common marketing database with the inspected person. It should also be noted that the object of activity of both of these companies is similar and the executives of these companies are family members. Even this fact, however, does not affect the fact that these are two companies, where it is not possible to share customer data, not even for marketing purposes, without the customers of the companies in question giving their consent.

In this context, the provisions of § 7, paragraph 3 of Act No. 480/2004 Coll. cannot be applied, as the customer exception in the case of being approached with an offer without consent (but precisely on the basis of a legitimate interest, which is given by the customer relationship) applies only to the offer goods or services of a company that obtained these contact details in connection with the sale of goods or services and offered its own or similar products or services. In this case, however, it was an offer from another company, not the one whose customer the addressee was.

In this case, the inspectors found a violation of § 7, paragraph 2 of Act No. 480/2004 Coll., as the inspected person repeatedly sent several commercial messages to the e-mail address in question without having the appropriate consent of the addressee. Furthermore, a violation of § 7 paragraph 4 letter b) of Act No. 480/2004 Coll., as the commercial messages sent contained only information about delivery points or a mere link to the website of the online store, but not proper identification of the sender on whose behalf the communication took place, e.g. in the form of the company name, registered office or identification data.

Sanctions were imposed on the audited person for the above-mentioned violations in administrative proceedings, which were already paid by the audited company.

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