

UOOU-03970/19

The inspection of this company was initiated on the basis of more than 40 complaints about the sending of commercial messages. The subject of the inspection was the assessment of compliance with the obligations arising from Act No. 480/2004 Coll., on certain services of the information society, in the dissemination of commercial communications by electronic means, e-mail. The commercial communications in question contained offers for various consumer goods and referred to the websites of various online stores. Commercial messages were sent over a period of about nine months, from domain names that did not function as websites, but were only created for this purpose (that is, the dissemination of commercial messages). These domain names evoked favorable purchases, offers, etc. in their text. Some commercial messages contained information that the sender was a controlled person or nothing was mentioned about the sender or for whose benefit the commercial message is being sent. The office first checked who is the sender of the commercial messages in question, based primarily on the finding to whom individual sending e-mail addresses (or domain names) are registered. However, the individual companies that the Office approached in this sense did not respond, did not provide any cooperation, did not even respond to the invitations sent. The result was the finding that, in most cases, the commercial communications in question were sent by a third company, which, however, was and is connected to the audited person, primarily in the capacity of executive. In the case of the audited company itself, it was proven that only one commercial communication was sent. The sender could not be proven for part of the commercial messages. Regarding the determination of the disseminator of commercial communications, i.e. the person for whose benefit the commercial communications are disseminated, the Office came to the conclusion that the commercial communications were disseminated for the benefit of the controlled person, as well as another company, different from the sender himself. However, even in the case of this other company, a connection with the other companies involved in this case was proven (i.e. both the company that sent the commercial message and also the controlled person). In the given case, the Office noted both a violation of § 7 paragraph 2 of Act No. 480/2004 Coll., i.e. sending business communications without prior consent, as well as a violation of § 7 paragraph 4 letter b) of Act No. 480/2004 Coll., since the commercial communications in question did not state the identity of the person for whose benefit the commercial communication is disseminated. The inspected person did not object to the inspection report. At the end of November 2020, the Office initiated joint administrative proceedings with all interested companies, which were found to be in violation of the relevant provisions of

Act No. 480/2004 Coll. As part of the aforementioned inspection, a disciplinary fine of CZK 25,000 was imposed on the inspected person for non-cooperation during the inspection, and another company (obliged person) was fined 25,000 CZK for non-cooperation. Recommendation: The Office is increasingly encountering cases of variously connected companies, both in the persons of the executives and with common places of business. And also with the fact that such companies constantly alternate in the positions of operators of online stores and senders of business messages. These companies also do not provide the proper cooperation that is required under the controls. The intentions of these companies are then purely expedient. The Office is proceeding with these companies on the one hand using all legal means, such as the imposition of disciplinary fines for non-cooperation, on the other hand in light of the decision, which was also confirmed by the decision of the Municipal Court in Prague, about which the Office has already informed on its website.

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