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Spotify AB

Regeringsgatan 19

111 53 Stockholm

Diary number:

DI-2020-10533

Date:

2021-11-22

Decision after supervision according to

data protection regulation - Spotify AB

The Privacy Protection Authority's decision

The Swedish Privacy Protection Authority states that Spotify AB has processed

personal data in violation of

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article 12.3 and 15 of the data protection regulation<sup>1</sup> by not unnecessarily

delay have given the complainant access to his personal data in accordance with

the appellant's request of 26 December 2018 only on 3 June 2021,

Article 12.2 of the Data Protection Regulation by not having facilitated

the appellant's exercise of his right under Article 16 to be informed of

home address corrected in accordance with his request of December 25, 2018 and

instead directed the complainant to create a new account on the company's music service,

and

article 12.3 and 16 of the data protection regulation by not unnecessarily

delay granted the appellant's request for correction of his home address by

on 25 December 2018 in that the correction only took place on 17 October 2019.

The Swedish Data Protection Authority gives Spotify AB a reprimand according to article 58.2 b i the data protection regulation for violation of article 12.2, 12.3, 15 and 16.

Account of the supervisory matter

The Swedish Privacy Protection Authority (IMY) has started supervision of Spotify AB (Spotify or the company) due to a complaint. The complaint has been handed over to IMY, i attribute of responsible supervisory authority according to Article 56 of the Data Protection Regulation, from the supervisory authority of the country where the complainant has filed his complaint (Germany).

The handover has taken place in accordance with the regulation's provisions on cooperation in case of cross-border processing.

The proceedings at IMY have taken place through an exchange of letters. Against the background that it applies cross-border treatment, IMY has used the mechanisms for cooperation and uniformity found in Chapter VII of the Data Protection Regulation. Affected supervisory authorities have been the data protection authorities of Belgium, Ireland,

1 REGULATION (EU) 2016/679 OF THE EUROPEAN PARLIAMENT AND OF THE COUNCIL of 27 April 2016 on the protection of

natural persons with regard to the processing of personal data and on the free flow of such data and on repeal of Directive 95/46/EC (General Data Protection Regulation).

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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Netherlands, Germany, Denmark, Italy, Cyprus, Portugal, France, Austria,

Finland, Norway, Luxembourg, Slovakia, Hungary, Spain and Poland.

The complaint

The complaint essentially states the following. The appellant has been refused to change his address for his account on the company's music service. The company's customer service has stated that it is not possible to change addresses for accounts and that the solution is to delete the account and open a new account. The appellant has requested to have his information corrected and considers that not should be necessary to close your account and open a new one to make it happen amendment. Furthermore, the complainant has requested access to his personal data. None of the requests have been met.

What Spotify has stated

Spotify has essentially stated the following.

Spotify received a request from the complainant to update the complainant's home address on December 25, 2018. The request was answered on December 26, 2018. The company then informed the complainant that update of address on the already existing the account (Family account) was not technically feasible, but that a new account with it the correct address could be created to solve the problem. Spotify would then have created a new account for free, and Spotify's customer service team would have transferred everything content, such as playlists, followers, and account information to the new account. This one however, the solution was rejected by the appellant.

Since then, Spotify has developed a new version of Family Accounts, which allows

the user to change their own address, instead of interfering with customer service and transfer the account. The complainant was transferred to the new version, in which the address can be changed by the user in the account settings, on September 18, 2019, whereupon the appellant updated to its new address on October 17, 2019.

Spotify believes that the company took the necessary steps to satisfy the complainant request on December 26 and 27, 2018, by explaining that it was not technical possible in the version of Family Account that existed at the time and instead offered an alternative solution to the problem.

Spotify received the complainant's request to exercise the right of access on 26 December 2018. Spotify customer service responded to the complainant on 26 December 2018 and referred the complainant to Spotify's Privacy Center. It is an online service, which provides standard information about Spotify's personal data processing and how individuals can exercise their data protection rights, with a link to the "Download your data" tool. Spotify's however, records show that the appellant did not use the "Download Your Data" tool or expressed further wishes to have access to their personal data.

According to Spotify's standard process, the customer service advisor would have dealt directly the complainant's request for right of access instead of referring the complainant to the company's Privacy Center. On review of the correspondence with the appellant it appears that that the customer service advisor was primarily focused on answering the complainant's request for correction and did not notice that it was also a request for access and therefore did not respond to the request for access in accordance with the company's standard process. As part of the company's internal data protection program, customer service is regularly trained in how they can identify and appropriately act on and escalate requests from registered. In this case, the customer service advisor made a mistake.

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Due to the above described, the complainant was not given access to his personal data according to its request on December 26, 2018.

Spotify contacted the complainant by email on June 3, 2021 regarding his request for access and informed that the data has been made available to download. However, the complainant has not downloaded them or been heard from.

Justification of decisions

Applicable regulations, etc.

According to article 12.2 of the data protection regulation, the personal data controller must facilitate the exercise of the data subject's rights in accordance with Articles 15-22.

According to Article 12.3, the individual's request to exercise his rights must be handled without undue delay and in any event no later than one month after request received. The deadline of one month may be extended by a further two months if the request is particularly complicated or the number of received requests is high.

According to Article 15, the data subject shall have the right to obtain from the personal data controller confirmation of whether personal data concerning him or her are being processed.

If such data is processed, the personal data controller must leave the applicant supplementary information as well as a copy of the personal data that it personal data controllers process.

According to Article 16, the data subject shall have the right to the personal data controller without unnecessary delay in having incorrect personal data concerning him or her corrected. With taking into account the purpose of the processing, the data subject shall have the right to supplement incomplete personal data, including by providing a supplementary statement.

The Swedish Privacy Protection Authority's assessment

Spotify has not dealt with the complainant's request for access in accordance with data protection regulation

The IMY considers that Spotify has not dealt with the complainant's request for access of 26 December 2018 in accordance with the data protection regulation. It wasn't enough to Spotify responded to the complainant's request by referring to the company's online service.

That Spotify only contacted the complainant on June 3, 2021 and initiated the process to disclose the complainant's personal data cannot be considered to have given the appellant access to the data without undue delay in the sense referred to in data protection regulation. What Spotify states that there was a question

a one-off occurrence due to an oversight does not lead to a different assessment.

Against this background, IMY notes that Spotify AB has processed personal data in contrary to article 12.3 and 15 of the data protection regulation by not unnecessarily delay in having given the complainant access to his personal data according to the complainant's request of 26 December 2018 only on 3 June 2021.

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Spotify has not dealt with the complainant's request for rectification without undue delay and did not facilitate the exercise of the appellant's right to request rectification in accordance with the data protection regulation

When the appellant on 25 December 2018 requested to change his home address had according to the company's own information, there is no technical possibility to change the information in any other way than the complainant created a new account. However, IMY believes that the solution that the company offered, that is, the appellant would create a new account into which the company would transfer the complainant's information, was not sufficient for the company to be considered to have handled the request

for rectification or to have made it easier for the complainant to exercise his rights. Appellant's address was only updated on October 17, 2019 by his own care, after that the company has taken measures to enable it on 18 September 2019.

IMY thus notes that Spotify AB has processed personal data in violation of Article 12(2) of the Data Protection Regulation by not facilitating the complainant exercising his right under Article 16 to have his home address information corrected and instead directed the complainant to create a new account on the company's music service. Furthermore, IMY states that Spotify AB has processed personal data in violation of Article 12.3 and 16 of the data protection regulation by not satisfying without undue delay the appellant's request for correction of his home address of 25 December 2018 by that correction only took place on 17 October 2019.

#### Choice of intervention

From article 58.2 i and article 83.2 of the data protection regulation it appears that IMY has power to impose administrative penalty charges in accordance with Article 83.

Depending on the circumstances of the individual case, administrative penalty fees are imposed in addition to or instead of the other measures referred to in article 58.2, such as injunctions and prohibitions. Furthermore, it is clear from article 83.2 which factors to be taken into account when deciding whether administrative penalty charges are to be imposed and when determining the size of the fee. If it is a minor violation receives IMY as set out in recital 148 in lieu of imposing a penalty charge issue a reprimand according to article 58.2 b. Consideration must be given to aggravating circumstances and mitigating circumstances of the case, such as the nature of the violation, degree of severity and duration as well as previous violations of relevance.

IMY states that the violations affected one person, that it did not concern sensitive people information and that the company has not previously been found to have violated the aforementioned articles except article 12.4 on 8 June 2018.<sup>2</sup> Furthermore, Spotify has now corrected the information

appellant's home address, changed its procedure for updating such information for to facilitate the registered and on their own initiative taken measures to accommodate the appellant's request for access. Against this background, IMY assesses that there is a question on such minor violations in the sense referred to in recital 148 which result in Spotify AB must be given a reprimand according to Article 58.2 b of the data protection regulation for the found the violations.

This decision has been taken by the head of unit Catharina Fernquist after a presentation by the lawyer Olle Pettersson.

2 IMY's decision of 24 March 2021, dnr DI-2020-10541.

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Catharina Fernquist, 2021-11-22 (This is an electronic signature)

Copy to

The data protection officer

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How to appeal

If you want to appeal the decision, you must write to the Swedish Privacy Agency. Enter in the letter which decision you are appealing and the change you are requesting. The appeal shall have been received by the Privacy Protection Authority no later than three weeks from the day you received it part of the decision. If the appeal has been received in time, send

The Privacy Protection Authority forwards it to the Administrative Court in Stockholm



examination.

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.