

Nuuday receives serious criticism for the unjustified collection of social security numbers

Date: 16-02-2022

Decision

Private companies

Serious criticism

Complaint

The right to access

Basic principles

Exercise of rights

The Danish Data Protection Authority has expressed serious criticism of Nuuday A/S because the company unjustifiably collected information about CPR numbers and answered a request for insight too late.

Journal number: 2020-31-4333

Summary

In connection with the processing of a complaint, the Danish Data Protection Authority has expressed serious criticism of Nuuday A/S (hereafter 'Nuuday') because the company unjustifiably collected information about the complainant's social security number, and furthermore answered a request for insight from the complainant too late in accordance with the deadlines of the data protection regulation.

The complainant had called Nuuday to find out if it was possible to get broadband at his address. In this connection, the complainant was asked to provide his social security number. Subsequently, the complainant contacted Nuuday by e-mail and requested an answer as to why and on what basis the company had collected the complainant's social security number. In the same case, the complainant requested insight into the information that the company processed about complaints. The complainant only received a final response to his access request more than half a year after making the request. According to the data protection regulation, data controllers must respond to an uncomplicated request for, for example, insight no later than one month after they have received the request.

Nuuday acknowledged in connection with the Danish Data Protection Authority's investigation of the case that the company had neither a purpose nor authority to collect the complainant's social security number, and that the complainant had also not

been given timely insight. The reason why the complainant was asked to provide his social security number was an error by an employee at Nuuday.

Decision

The Danish Data Protection Authority hereby returns to the case where [complainant] (hereinafter 'complainant') on 5 December 2020 complained to the Danish Data Protection Authority about Nuuday A/S' (hereinafter 'Nuuday') processing of personal data about him.

1. Decision

After a review of the case, the Danish Data Protection Authority finds that there are grounds for expressing serious criticism that Nuuday's processing of personal data on complaints has not taken place in accordance with the rules in the Data Protection Act^[1] Section 11, subsection 2, and the data protection regulation^[2] article 12, subsection 3, and Article 15. Below follows a closer review of the case and a rationale for the Data Protection Authority's decision.

2. Case presentation

It appears from the case that the complainant called Nuuday on 4 December 2020 to ask if it was possible to get broadband at his address. In this connection, the complainant was asked to provide his social security number.

The complainant contacted Nuuday by e-mail the same day and requested an answer as to why and on what basis Nuuday collected the complainant's social security number. The complainant also requested access to all information that Nuuday processed about him.

Nuuday responded to Complainant on December 5, 2020, stating that the reason Complainant had been asked to provide his social security number was for Nuuday to conduct a credit assessment of Complainant.

In relation to the complainant's request for insight, Nuuday answered this on 3 May 2021.

2.1. Complainant's comments

The complainant has generally stated that Nuuday was neither authorized to register his social security number during the telephone conversation of 4 December 2020, nor has he answered his request for insight in accordance with the data protection legal rules.

The complainant has stated that Nuuday's request to be informed of the complainant's social security number was of a routine nature, and that the information was not relevant in relation to the fact that the complainant's inquiry was about whether he

could get an internet subscription for approx. DKK 300 per month. Against this background, it is difficult to see how the principles of data protection law have been observed in Nuuday's routine collection and use of social security numbers.

With regard to Nuuday's response to the complainant's request for insight on 3 May 2021 (see below), the complainant has stated that the response was difficult to find and also consisted of a lot of excel sheets. The reply also did not include information about the complainant's customer relationship, including the complainant's e-mail at Nuuday. Furthermore, there was no information about what the complainant's social security number was specifically used for, nor in which systems the information was registered.

The complainant has also claimed that he wants to be informed when his social security number was deleted, as well as how long Nuuday kept the information. In this connection, the complainant has stated that if Nuuday had responded to the complainant's request within the deadline, he would probably have received the information he had requested. As a result of the complainant not having received this information, the complainant has no opportunity to verify Nuuday's explanation that his social security number was collected because his customer relationship should justify it.

The complainant has also been critical of Nuuday's claim that the complainant's social security number is not registered in any of YouSee's (belonging to Nuuday) systems, and that Nuuday cannot ascertain whether the social security number has at any time been registered with YouSee. The complainant has also stated that it must be possible for Nuuday to see what the complainant's social security number has been used for.

2.2. Nuuday's remarks

Nuuday has generally stated that the company had neither a purpose nor authority to process the complainant's social security number, and that the complainant has not been given timely insight into which personal data YouSee processed about him.

Nuuday has informed the Danish Data Protection Authority that on 3 May 2021 the company gave the complainant insight into the information that the company processed about him and which concerned YouSee's broadband product. In continuation of the complainant's remarks that the response was not sufficient, Nuuday was able to establish that the company processed additional information about complaints in connection with the complainant's use of another product in the form of a TDC/YouSee email as well as other information in connection with the now closed fire Fullrate. Nuuday subsequently sent this additional information to complainant in response to his access request.

Nuuday has explained that the company collects and processes subscribers' personal identification numbers when a

subscription agreement is entered into with a customer. Social security numbers are processed based on the customer's consent, which is given in connection with the conclusion of the subscription agreement. The purpose of the processing is, firstly, to ensure payment of credit agreements and, secondly, to ensure that equipment which may be provided in connection with the subscription, e.g. routers, etc., are returned at the end of the subscription. Although many subscriptions today are pre-paid, in connection with many services it is possible to consume additional services, such as international telephony, content-charged services, etc., which are only charged afterwards, whereby a credit relationship arises.

In the present case, the complainant originally had a broadband subscription with the Nuuday brand Fullrate, which did not process their subscribers' social security numbers. Fullrate was discontinued in 2019, and all customers were basically transferred to YouSee during 2020. In this connection, the complainant's master information was transferred to YouSee, but the complainant did not create a YouSee subscription.

As regards Nuuday's collection of the complainant's social security number during the telephone conversation on 4 December 2020, Nuuday has stated that the employee in question was mistakenly of the opinion that due to the complainant's webmail account with YouSee, a subscription relationship already existed which could justify a processing of the complainant's social security number in accordance with the data protection regulation, article 6, subsection 1, letter a, cf. Article 5, subsection 1, letters b and c. Nuuday has apologized for this error.

3. Reason for the Data Protection Authority's decision

3.1.

This follows from Section 11, subsection of the Data Protection Act. 2, that private individuals may process information about social security numbers when:

it follows from the legislation,

the data subject has given consent to the processing,

the processing only takes place for scientific or statistical purposes, or if it is a matter of passing on information about social security numbers, when the passing on is a natural part of the normal operation of companies, etc. of the nature in question, and when the disclosure is of decisive importance to ensure a unique identification of the data subject or the disclosure is required by a public authority or

the conditions in Section 7 of the Data Protection Act are met.

Furthermore, it follows from Article 15 of the Data Protection Regulation that the data subject has the right to obtain confirmation from the data controller as to whether personal data relating to the person in question is being processed and, if applicable, access to the data as well as a range of additional information. In this connection, the data controller must provide a copy of the personal data that is processed, cf. the regulation's article 15, subsection 3.

The data controller must also, without undue delay and in all cases no later than one month after receiving a request for e.g. insight inform the data subject about measures taken on the basis of the request. The period can be extended by two months if necessary, taking into account the complexity and number of requests, cf. the data protection regulation, article 12, paragraph 3.

3.2.

On the basis of what was disclosed in the case, the Danish Data Protection Authority assumes that Nuuday did not have the authority to collect the complainant's social security number when the complainant called on 4 December 2020, as Nuuday himself has acknowledged this.

The Danish Data Protection Authority therefore finds that Nuuday's processing of the complainant's social security number has been in breach of Section 11, subsection 1 of the Data Protection Act. 2.

The Danish Data Protection Authority then assumes that Nuuday responded to the complainant's request for insight from 5 December 2020 on 3 May 2021. However, the response did not contain all information about complaints, as Nuuday was able to establish, in continuation of the complainant's comments in the case, that the company processed additional information about complaints in the form of a TDC/YouSee email as well as information originating from the now closed brand Fullrate. This additional information was then forwarded to the complainant in response to the access request.

On this basis, the Danish Data Protection Authority finds that Nuuday's response to the complainant's request for access was neither in accordance with the data protection regulation, article 12, subsection 3, or Article 15.

Overall, the Danish Data Protection Authority finds reason to express serious criticism of Nuuday's processing of information about complaints.

As regards the complainant's comments that it must be possible for Nuuday to see what the complainant's social security number has been used for, the Data Protection Authority assumes that there is conflicting information in the case, as Nuuday has stated on the contrary that this is not possible. The Danish Data Protection Authority cannot carry out an actual evidence

assessment if there is disagreement between the parties about the actual basis, which is why the Danish Data Protection Authority does not take any further action in relation to this.

The final assessment of evidentiary issues will instead be made in connection with the processing of a case by the courts, where there is an opportunity to elucidate disputed matters in more detail, including by questioning witnesses.

[1] Act No. 502 of 23 May 2018 on supplementary provisions to the regulation on the protection of natural persons in connection with the processing of personal data and on the free exchange of such information (Data Protection Act).

[2] 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 exchange of such data and on the repeal of Directive 95/46/EC (general regulation on data protection).