

1(11)

UC AB

Diary number:

DI-2020-7118

Date:

2021-12-21

Decision after supervision according to

Credit Information Act – UC AB

The Privacy Protection Authority's decision

The Swedish Data Protection Authority notes that UC AB discloses information about physical people's student loans in credit reports without ensuring that the information is correct and updated. UC AB has thus not taken all reasonable measures to ensure that personal data that are incorrect in relation to the purposes for which they processed deleted or corrected without delay. UC AB has thus treated personal data in violation of Article 5.1 d of the data protection regulation¹.

The Privacy Protection Authority orders with the support of Article 58.2 d i the data protection regulation UC AB that, no later than three months from the date this decision has gained legal force, process information about student loans in the following way.

When information about student loans is given out in a credit report, information must be given about current student loans that have been updated during the last thirty-one day period are included.

Statement of the matter

The Swedish Data Protection Agency (IMY) has drawn attention to the fact that UC AB (UC) has started register and disclose information about individuals' CSN loans in their credit reporting activities.

IMY has initiated supervision of UC with the aim of investigating what information is processed and how the information is collected and to whom the information is disclosed and how the processing is done

relates to article 5 of the data protection regulation and the conditions according to the Credit Information Act (1973:1173) which IMY notified UC in a decision on 5 December 2001 (No. 543-2000).

UC has commented on IMY's orders and essentially stated the following.

UC processes information about which loans an individual has and which are registered with CSN (annuity loan, student loan and/or student loan) (hereafter student loan) and remaining payment period in number of years. UC collects the information from the annual report regarding the individual's credit commitment in relation to CSN. Information about any contributions are not processed. The collection of the data on CSN loans takes place as follows

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

E-mail:

imy@imy.se

Phone:

08-657 61 00

Page 1 of 11 The Swedish Privacy Agency

Diary number: DI-2020-7118

Date: 2021-12-21

2(11)

show that CSN provides the information on physical paper that UC then reads into

digital format.

UC releases the information about CSN loans to recipients who have entered into an agreement with UC regarding the data and who have a legitimate need in accordance with § 9 of the Credit Information Act. The additional service CSN loan can be added within the framework of the customer buys personal data. This means that UC does not release information about CSN loans in company information such as when disclosing information about an individual entrepreneur, trading partner or business-related person. Once the customer has chosen to purchase the additional service CSN loans, that information item will also appear in the personal information ordered by the customer. UC has so far released information on student loans to banks, credit market companies and consumer credit companies.

UC splits CSN information and credit commitment into two separate additional services.

The division of various information items takes place partly as a result of commercial considerations regarding income and costs and partly as a result of customers have different needs for information. This means that it has existed for a long time different amounts of information in different credit reports and there is also a price difference between the different credit information.

Of UC's credit reporting permit decided on December 5, 2001 (543-2000)

it appears on page 3 under point 5 that UC may process information about natural persons credit commitment. Since CSN loans are credit commitments, UC believes that this follows of the credit information authorization that UC may process the current information.

When it comes to how the treatment relates to Article 5 i of the data protection regulation applies to the following:

With regard to Article 5.1 a on legality, transparency and correctness, UC notes that there has been no change to the credit reporting permit regarding the right to process data on credit commitments since the Credit Information Act was adapted to the data protection regulation. UC has been processing information about for several decades

loans/credit commitments for natural persons, for example housing loans, blank loans and consumer credits. The processing of loans has been deemed to take place in accordance with the legislation and the credit information permit both before and after the data protection regulation entry into force. It also appears explicitly from Section 5 a of the Credit Information Act that credits, which are subject to bank secrecy, may be processed in credit reporting operations.

CSN loan is a credit commitment and UC also treats in other respects the information about CSN loans in accordance with the Credit Information Act and the credit information permit. UC believes that it follows from the legislation and the regulations as IMY announced that the processing of CSN loans is legal and correct. UC also believes that the information is processed in an open manner in relation to the registered in such a way that Section 11 of the Credit Information Act on the duty to copy is applied.

The government clarifies in prop. 2017/18:120 page 53 that § 5 second paragraph

The Credit Information Act specifies Article 5 of the Data Protection Regulation. Because UC processes CSN loans for credit reporting purposes according to Section 5, second paragraph The Credit Information Act assesses UC that Article 5.1 b of the Data Protection Regulation is complied with.

The information in a credit information register must be adequate and relevant and not for extensive in relation to the purposes for which they are processed. Of the preparatory work to The Credit Information Act states that credit information activities then

Page 2 of 11 The Swedish Privacy Agency

Diary number: DI-2020-7118

Date: 2021-12-21

3(11)

The introduction of the Credit Information Act has been considered to have great significance for Swedish society. Regarding the availability of information, it appears that it is considered necessary for the lenders to have access to a good basis for their credit assessment in order to

the granting of credit must function as friction-free as possible and that the possibility of collecting information about the loan applicants should not be restricted to an excessively high degree because lending is inhibited and credit losses increase.

It follows from § 12 of the Consumer Credit Act that a credit provider is responsible for making a credit check before a loan is granted. The credit check must be based on sufficient tasks. In prop. 2009/2010:242 pp. 100-101 it is explained that "The expression "sufficient data" is taken from the directive. This means that the trader must collect as many details as the consumer's ability to pay for the credit in question can be assessed with a high degree of certainty. The trader is generally obliged to get an overall picture of the consumer's financial situation. The data must normally always include the consumer's income and other credit obligations... More data sources may need to be used. Data can be obtained from the consumer, from a credit report, from a database maintained by an authority, e.g.

The enforcement authority, or from the creditor's own register or database.

The sources of information are partially overlapping and which sources of information should be used in a certain credit check may be decided against the requirement that the check should be based on sufficient data. The consumer should normally be asked about their economic conditions, but in practice data alone is rarely sufficient from the consumer. The consumer's details should always be checked, e.g. using a current credit report. If the trader obtains a credit report, it is information that the trader then receives, together with the information from the consumer, generally sufficient, of course depending on how complete and current the information in the credit report is."

The Swedish Consumer Agency has decided on general advice, KOVFS 2020:1, which entered into force on 1 July 2020. Of the general advice regarding credit checks, it is stated that information about debts should be collected from the consumer and that "data collected about

the consumer's credit should be checked against a credit report. About it off

the credit information shows that the consumer has applied for or been granted others

credits than the consumer stated, the trader should check this with

the consumer" (see KOVFS 2020:1 under the heading To §§ 12-13 - Credit assessment).

It follows from the statements that the legislator that the credit report is a relevant source to go to

within the framework of a credit check. Although the statements do not mention which debts are

should be included in a credit report, the statements should be read from the perspective that

the legislator on the one hand wants to create a credit check process that counteracts

overindebtedness, partly aims to maintain the institutions' solvency and liquidity and

ultimately financial stability.

CSN loans are common among borrowers as 1,605,000 had CSN loans as of 31

December 2019. Total CSN loan amount amounted to 231.8 billion and average debt per

individual SEK 144,000 as of 31 December 2019. The total amount of SEK 231.8 billion can

equated with Swedish households' consumer credit, which was 255 billion as of June

2020 according to Statistics Sweden's financial market statistics.

From a credit granting perspective, CSN loans are important for assessing the individual from one

financial aspect and a future ability to repay and is important

information to have a good basis for decision-making which thus contributes to reducing

Page 3 of 11 The Swedish Privacy Agency

Diary number: DI-2020-7118

Date: 2021-12-21

4(11)

over-indebtedness in society. Student loans are an expense that the individual has and as a

lenders also need to weigh in the remaining-to-live-on calculation.

Because CSN loans can make up a significant portion of an individual's indebtedness and can

at an individual level amount to several hundred thousand kroner, i.e. alongside home loans one of

the largest loans that an individual takes during his life, so it is of great importance that the task appears from a credit report to fulfill the purposes stated above.

UC also does not consider that the nature of the data differs from other credit engagements way that they would be more privacy-infringing in comparison with other credits or that CSN loans are a more private matter compared to bank loans, housing loans or other high-cost credits such as SMS loans. In summary, UC believes that the treatment of CSN loans is adequate, relevant and not too extensive in relation to credit reporting operations.

From the credit information permit it appears on page 7 that IMY does not prescribe from which sources of information may be obtained but the inspection assumes that the sources used will be reliable and accurate and that the information collected is relevant for the credit reporting operations. UC has not considered CSN as authority should be treated negatively in relation to other authorities which provides information to UC. On the contrary, UC has made the assessment that CSN is one source that provides reliable and accurate information and that the information is relevant to credit reporting operations. The information is taken from the annual reports as CSN delivers and then undergoes UC's quality review procedures. The individual has exactly the same possibility as with regard to other data in the credit information register to request that misleading information or incorrect information be corrected in accordance with § 12 the Credit Information Act. This means that UC without delay takes measures to delete or correct any incorrect information. UC therefore believes that the principle of accuracy is adhered to.

Currently, the student loan and repayment period information is updated once per year in connection with the next annual report being provided from CSN.

Updates therefore take place during the period January/February of the following year.

UC always strives to provide changes that occur after the

of the information made available from the information source. Sometimes such updates are from the source more frequently and sometimes less frequently. The refresh rate regarding taxed income is, for example, once a year. If in the future it is possible to update CSN loans more frequently, UC will review the procedures to accomplish this. Since the update frequency is yearly, UC clearly states that the information comes from the annual report and what is reported is the balance of the student loan at the start of the year and the balance at the end of the year. In this way, the recipient of the information is made aware of when the information was updated and can take the actions considered necessary in the individual case.

The government clarifies in prop. 2017/18:120 page 53 that § 8 of the Credit Information Act specifies Article 5 GDPR, which in this case means that UC according to § 8 the credit information act deletes the information after 36 months. UC assesses that this is also in accordance with article 5.1 e. The now-mentioned thinning period enables UC to in the credit information provide information on CSN loans for the last two years.

The data from CSN is processed from a security perspective in the same way as other information in the credit information register. UC assesses that the technical and

Page 4 of 11 The Privacy Protection Authority

Diary number: DI-2020-7118

Date: 2021-12-21

5(11)

organizational measures taken are appropriate and include protection against unauthorized or improper treatment and against loss, destruction or damage. It should also in this context it is mentioned that the Credit Information Act contains a statutory confidentiality for the data processed in the credit reporting operations.

Justification of the decision

Applicable provisions in the Credit Information Act and

data protection regulation

In section 5, first paragraph of the Credit Reporting Act, it is stated that credit reporting operations shall be conducted so that it does not lead to an undue invasion of personal privacy through the content of the information that is conveyed or in any other way or to false or misleading information is stored or disclosed. For such processing of personal data covered by the data protection regulation, article 5 of that regulation applies instead.

From Section 5a, first paragraph of the Credit Information Act, it appears that what applies if confidentiality in the operations of Swedish credit institutions, payment institutions, institutes for electronic money, securities companies and companies operating with a permit activities according to the Act (2014:275) on certain activities with consumer credits or the Act (2016:1024) on activities with housing credits, does not prevent information about provided credits, payment defaults and credit abuse are exchanged for credit reporting purposes within a circle consisting of these companies and such companies that have permission from the Swedish Privacy Protection Agency according to § 3, first paragraph. Of the second paragraph states that certain foreign credit institutions are also included in the closed circle. It appears from article 5.1 a of the data protection regulation that personal data must be processed in a legal, correct and transparent manner in relation to the data subject (legality, correctness and transparency).

Article 5.1 c states that the data must be adequate, relevant and not for excessive in relation to the purposes for which they are processed (task minimization).

According to Article 5.1 d of the data protection regulation, personal data processed must be correct and if necessary updated. All reasonable steps must be taken to ensure that personal data that are incorrect in relation to the purposes for which they are processed deleted or corrected without delay (accuracy).

IMY's positions regarding information on credit commitments for credit reporting purposes in previous decisions

The IMY (at the time the Data Inspectorate) announced on October 9, 1975 UC permission to keep a register for credit information purposes in accordance with the data act in force at the time (1973:289) (dnr 1829-75). In connection with this, UC was granted permission to register information on installment credits and the equivalent. The data could only be retrieved from "financing companies".

The permit was renewed on 2 February 1987 (dnr 212-86). The data also received will continue to be collected only from "financing companies". A special regulation was notified with the implication that information on granted bank credits/account cards, bank connections as well as checking salary account/personal account terminated due to abuse could only be used for internal bank credit reporting. UC appealed it

Page 5 of 11 The Privacy Protection Authority

Diary number: DI-2020-7118

Date: 2021-12-21

6(11)

the new regulation to the then appeals authority, the government. The government changed IMY's decision in such a way that, on the one hand, the limitation of use of the matter in question tasks for internal banking were canceled, partly because a new regulation was introduced by content that information about granted credits and credit cards could only be disclosed to so-called "closed user groups".

In the final report of the Credit Information Investigation (Ju 1991:06) Integrity and efficiency in the field of credit reporting (SOU 1993:110) it was proposed that a provision corresponding to IMY's regulation that information on credit commitments may only be disseminated within a closed circle of users must be introduced in the Credit Information Act. The government divided the inquiry's view and a provision on information exchange was introduced in the Credit Information Act (Section 5 a). The provision entered into force on 1 July 1997.

The Data Act was replaced by the Personal Data Act (1998:204) on 24 October 1998. After

requests from UC, on March 10, 2000, IMY prepared a proposal for revised conditions and regulations for the credit information activities UC conducted. The proposal was intended to replace previous decisions on conditions and regulations for the business.

On December 5, 2001, the IMY decided on the amendment with the support of Section 4 of the Credit Information Act of conditions for how UC's credit information activities are to be conducted (dnr 543-2000).

Previously announced regulations, conditions and consents thus ceased to apply.

The decision was not appealed. The conditions that were decided thus still apply.

Since 25 May 2018, the data protection regulation (GDPR) applies, which then replaced the Personal Data Act. This change with respect to personal data processing

has no significance for the condition that applies according to the Credit Information Act.

Applicable condition announced in decision on December 5, 2001

according to the Credit Information Act

Conditions A.1-7 regulate which data may be processed concerning natural persons.

Information on credit commitment is regulated in condition A.5:

A.5 Information on natural persons' credit commitments

In addition to general information according to A.2 above, receive the following information about credit commitments treated:

Lenders

Type of credit

☐

☐

☐ Date when the credit was granted

☐

☐

Credit period

Including the size of the credit, credit limit and original credit

utilized credit, and

Contract or account number

□

On page 12 of the decision, the following is stated in the reasons regarding data on natural persons

credit commitment:

According to this decision, UC may process information that is related to

credit commitment. From § 5 a KuL it appears that what applies to confidentiality in

the activities of banks, credit market companies and securities companies do not prevent

information on submitted credits, payment defaults and credit abuse is exchanged

Page 6 of 11 The Privacy Protection Authority

Diary number: DI-2020-7118

Date: 2021-12-21

7(11)

for credit information purposes within a circle consisting of these companies and such

companies that are authorized to carry out credit reporting activities. The information on i.a.

credit abuse is very privacy sensitive. The Swedish Data Protection Authority assumes that these

information is not disseminated outside the circle mentioned in the provision.

The Swedish Privacy Protection Authority's assessment

IMY's assessment of whether information about student loans is such information that may

processed according to the conditions that regulate UC's operations

UC may process data on credit commitments according to condition A.5. When the condition

was decided, IMY meant by credit commitment such credits provided by them

companies covered by the closed circle of companies enumerated in the provision

on information exchange in Section 5 a of the Credit Information Act. The provisions in section 5a mean

that such duty of confidentiality that applies in the operations of various financial companies, for example 1

Cape. Section 10 of the Banking and Financing Act (2004:297) does not prevent data from

if credits, payment defaults and credit abuse are exchanged for credit reporting purposes within a circle consisting of these companies as well as credit reporting company. IMY therefore points out in the reasons for condition A.5 that the authority presupposes that the engagement details are not disseminated outside the circle mentioned in the provision. This limitation was not included in the condition itself. The condition limits nor from which sources information on credit commitments may be collected.

Information about student loans can be seen as a form of credit commitment. However, it is not a credit provided by such financial companies that are part of the closed circuit in § 5 a of the Credit Information Act. CSN is a government authority whose lending activities regulated in the Student Support Act (1999:1395) and the Student Support Ordinance (2000:655). CSN's operations are not subject to such confidentiality as stated in § 5 a. CSN included not in the closed circle of companies that can exchange information with each other according to § 5 a.

However, IMY assesses that condition A.5 has been given such a design that also information about student loans provided by CSN may be considered to constitute such information credit commitments that UC may process with the support of condition A.5.

IMY's assessment of whether UC's processing of information about student loans lives up to the principle of data minimization (Article 5.1 c)

When a credit provider is faced with testing whether an applied for credit should be granted, it is important for the creditor to be aware of which credit commitments credit applicants already have. IMY has therefore since the Credit Information Act addition permitted that information about credit commitment is processed for credit reporting purposes. The information has been disseminated to creditors within the financial sector.

IMY assesses that information about the borrower's student loan is also adequate and relevant and not too extensive information for credit reporting purposes when a credit report disclosed to form the basis of a credit assessment of a company within it

financial sector.

It appears from the justification for condition A.5 that IMY considers that information about credit commitments are very sensitive and that IMY therefore assumes that these data not spread outside the circle mentioned in section 5 a. IMY considers that even an information about student loan is privacy-sensitive information about credit commitment which according to article 5.1 c

Page 7 of 11 The Swedish Privacy Agency

Diary number: DI-2020-7118

Date: 2021-12-21

8(11)

in the data protection regulation should not be disclosed in credit information in other cases than when a credit assessment must be made by a financial company within the closed circle in section 5 a.

When credit information is disclosed in order to form the basis of other contexts

assessment of someone else's creditworthiness or otherwise in financial terms

in this regard, the information on student loans is not necessary and too extensive. Such a processing would therefore be contrary to the principle of data minimization in Article 5.1 c i data protection regulation.

UC states that information on student loans has so far only been released to companies that are part of the closed user circle in Section 5 a of the Credit Information Act. IMY states against it the background that UC's handling to date is compatible with the principle of data minimization in Article 5.1 c of the data protection regulation.

IMY's assessment of whether UC's processing of information about student loans lives up to the principle of accuracy (Article 5.1 d)

UC has reportedly released information about student loans in credit reports to banks, credit market companies and consumer credit companies for credit reporting purposes.

The information has thus formed the basis for credit assessments within the financial sector the sector.

According to Article 5.1 d of the data protection regulation, personal data processed must be correct and if necessary updated.

UC collects information about student loans from the annual reports that CSN submits to the borrowers. The information is updated once a year in connection with the following annual report provided by CSN. Update takes place during the period January/February following year.

As IMY has already noted, it can be significant for a creditor to have knowledge of which credit commitments the credit applicant already has in the past in connection with the creditor having to test whether a new credit should be granted. One prerequisite for credit commitment information to be considered correct for credit information purpose is, in IMY's opinion, that the information is up-to-date. UC updates information on student loans once a year. IMY states that an information about student loans that are up to twelve months old are in many cases no longer relevant. One borrower can choose to repay all or part of their student loan at any time CSN. In addition to this, from the time the borrower must repay the student loan must this takes place with a certain amount determined by CSN for each calendar year. This means that a person who has paid back all or part of their student loan at the beginning of the year and/or follows a set payment plan will be charged with negatives credit report information in UC's credit report for several months after that the information has become out of date. There is therefore a risk that a creditor who has taken part of UC's credit report makes a credit decision based on incorrect information about the borrower's student loan.

The issue of risk of breach of personal integrity in connection with disclosure of information on credit commitment has been the subject of discussions between IMY and UC i previous supervisory cases. IMY has considered that UC reduced the risk of intrusion into personal integrity through the content of the information conveyed in an acceptable manner

by updating information on credit commitment once a month (dnr

Page 8 of 11 The Privacy Protection Authority

Diary number: DI-2020-7118

Date: 2021-12-21

9(11)

1264-2002 and 1212-2005). An information about an individual's credit commitment within

financial sector has thus been previously assessed by IMY as correct for one

credit information purposes if the information is updated at least once a month.

IMY believes that there is no reason to make any other assessment regarding one

credit commitments relating to student loans. When information about student loans is given out in a

credit information, the information must therefore be updated at least during the most recent one

month, i.e. during the last thirty-one day period, to be considered real for

a credit reporting purpose. It also follows from this that it is incorrect to disclose information

about "historical student loan" in a credit report, without at the same time specifying how big it is

current student loan is The fact that UC draws the customer's attention to the fact that

the information about student loans may be out of date since up to a year ago does not mean that

the information is correct for a credit reporting purpose. It is not the customer's responsibility to

update information in a credit report. UC has thus not taken all reasonable measures

measures to ensure that personal data that is incorrect in relation to the

purposes for which they are processed are deleted or corrected without delay.

IMY states that UC has processed personal data that is not correct in relation

for a credit reporting purpose by disclosing information about individuals

student loans that may be out of date since up to a year ago. UC has thus

not followed the principle of accuracy in Article 5.1 d of the data protection regulation.

Choice of corrective actions

If there has been a breach of the data protection regulation, IMY has a number

corrective powers to be available according to Article 58.2 a-j of the data protection regulation.

The supervisory authority can, among other things, instruct the person in charge of personal data to ensure that the processing takes place in accordance with the regulation and if required in a specific way and within a specific period. It follows from Article 58.2 that IMY in accordance with Article 83 shall impose penalty charges in addition to or in lieu of other corrective measures which referred to in Article 58(2), depending on the circumstances of each individual case. In Article 83.2 the factors to be taken into account in deciding whether an administrative penalty fee must be imposed, but also what will affect the penalty fee size. Of central importance to the assessment of the seriousness of the violation is its nature, severity and duration. If it is a minor violation may the supervisory authority, according to recital 148 of the data protection regulation, issue a reprimand instead of imposing a penalty fee.

IMY must choose a corrective action that is effective and deterrent, but at the same time proportional, i.e. reasonable in relation to the type of violation, how serious the violation is and what the consequences are.

IMY believes that the deficiencies regarding accuracy found in the case can be remedied by instructing UC, with the support of Article 58.2 d of the data protection regulation, to process information about student loans in such a way that the processing takes place in accordance with the requirements in Article 5.1 d of the data protection regulation.

UC must therefore be ordered to only disclose information about student loans in a credit information if the information includes information about current student loans such as updated in the last thirty-one day period.

IMY believes that it is reasonable that UC is given the opportunity to within three months from the fact that the decision gains legal force, introduce the necessary procedures to comply with the order.

Date: 2021-12-21

10(11)

This decision has been taken by the general manager Lena Lindgren Schelin after a presentation by department director Hans Kärnlöf. At the final processing also has Chief Justice David Törngren and Head of Unit Catharina Fernquist participated.

Lena Lindgren Schelin, 2021-12-21 (This is an electronic signature)

Appendix

Complaint referral

Copy to:

The Chancellor of Justice

Page 10 of 11 The Swedish Privacy Agency

Diary number: DI-2020-7118

Date: 2021-12-21

11(11)

How to appeal

If you want to appeal the decision, you must write to the Swedish Privacy Agency. 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.

