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On the basis of 77 initiatives, the Office at EC PROFIT s.r.o. control regarding compliance with Act No. 480/2004 Coll.

The Office found a violation of Section 7, Paragraph 2 of Act No. 480/2004 Coll., as the addressees of commercial communications did not give prior consent to the use of their electronic contact details for the purpose of disseminating commercial communications.

The Office further dealt with compliance with the obligation set out in § 7 paragraph 4 letter a) of Act No. 480/2004 Coll., i.e. the obligation to clearly and clearly mark disseminated commercial messages. The purpose of complying with this obligation is to protect the addressees, who should be able to recognize as soon as possible that this is a commercial communication.

Therefore, this designation should already be placed in the sender's designation or in the subject of the message, so that the addressee can decide whether to accept or open such a message, and to be able to distinguish such messages from others that are sent to him at first glance. If the marking was only in the content of the message itself, then it would entail higher costs for the addressees, associated with the fact that the addressee must first accept the entire message in order to find out from its content that the subject of this message is a commercial offer. As far as the specific form of labeling is concerned, the Office recommends labeling commercial communications directly with the words "commercial communications", or for example "promotional offer", "event", "spring discounts", "newsletter" or "OS", as such designations clearly evoke the fact, that this is a commercial message. The Office found that some commercial communications sent by the controlled person contained misleading labels, whereby the controlled person violated § 7 paragraph 4 letter a) of Act No. 480/2004 Coll.

The Office also checked whether the inspected person complies with the obligations set out in § 7 paragraph 4 letter b) of Act No. 480/2004 Coll., i.e. whether the sent commercial messages do not hide or conceal the identity of the sender, on whose behalf the communication takes place. An entrepreneur is considered to be such a person, i.e. a person whose goods, services or image is being promoted, while a clear and unambiguous identification of the entrepreneur is sufficient, i.e. the listing of the business company or name with additions and an unambiguous identifier, e.g. ID number. The authority found that the commercial communication of the controlled person did not contain any identification of the sender, but only links to websites where the offered goods can be purchased. The Office states that this method is not a sufficient fulfillment of the obligation set out in § 7 paragraph 4 letter b) Act No. 480/2004 Coll.

The Office further found that in several cases the inspected person also violated § 7 paragraph 4 letter c) of Act No. 480/2004

Coll., as commercial communications were sent without a valid address to which the addressee could directly and effectively send information that he does not wish the sender to continue sending commercial information.

The office imposed a fine of CZK 835,000 on the inspected person.

The inspection was conducted by inspector Ing. Josef Vacula.

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