

UOOU-01260/21

The check with this company was

launched on the basis of eight complaints about the sending of commercial messages, but also

especially since she has been with this company in previous years

conducted both control and administrative proceedings. Their subject was also dissemination

commercial communications, while these proceedings always found a violation of the relevant

legislation in this area. Subject to sent business

the messages were offers of specific types of goods for schools or companies and business

the message referred to the website of the controlled person. Under review

the auditee stated that indeed all the commercial communications in question

she sent. However, none of the email contacts were her clients or

customer. Regarding the sender, she said that she started using a paid service

for sending commercial messages, while only their own should be used

contacts from our own customer database (numbering approx. 11 thousand

tradable entities), however, there was apparently a mixing of newly acquired ones

contact information with the original contacts. She further said that the company

providing her with only a mailing service is not responsible for this action because

is only the provider of the given service. She then dealt with this company

blocking the mailing until it brings its database into compliance

with the relevant laws and will therefore contain only those e-mail contacts

addresses that actually belong to the customers or recipients who gave

consent to sending commercial messages. Controlling in this matter

found a violation of § 7 paragraph 2 of Act No. 480/2004 Coll., on certain services

information society. As it was with this company

there have been or have been several proceedings in the past on the same matter

alerted to the fact that it uses commercial communications for mailings

only e-mail addresses that it has obtained from its customers in accordance with § 7 paragraph 3 of the Act

No. 480/2004 Coll., or from users, addressees who have given consent to

by sending business communications in accordance with § 7 paragraph 2 of Act No. 480/2004 Coll., the controller observed

to the fact that this is a continuous and already long-term systemic problem

misconduct of the inspected person. As regards compliance with other conditions for

sending business communications referred to in § 7 paragraph 4 of Act No. 480/2004 Coll., controlling

found that the commercial communications in question (with the exception of one commercial communication)

it did not contain any information about how to send commercial messages

opt-out (cancel), for example in the form of a link (click-through) or mention

e-mail addresses or other options for how to proceed when logging out.

Given that it wasn't already

it is possible to prove whether at least the sending e-mail addresses to which were functional

it would be possible to opt out of sending commercial messages, it could not be

found a violation of § 7 paragraph 4 letter c) Act No. 480/2004 Coll. Controlling

however in this context

strongly advised the auditee to correct this deficiency and in each

business communication to include information about how they can be sent

terminate (cancel) as required by § 7 paragraph 3 of Act No. 480/2004 Coll. Objections

were not filed against the report on control by the controlled person.

In this case, it was subsequently

administrative proceedings were conducted and the inspected person was fined CZK 250,000 for the above-mentioned

violations, which

has already acquired legal force. Recommendation: The Authority recommends that you

companies verified before each mailing that their electronic databases

of contacts for sending business messages really only contain those contacts

who are their customers and at the same time have not refused to send commercial messages,

or it is the contacts that they have given by sending commercial messages

agreement. Furthermore, it is advisable to set up the relevant control for this purpose

mechanisms so that possible errors are detected as soon as possible. Every business communication must contain

information on how to refuse to receive commercial communications. In relationship

this option must be given to customers clearly, distinctly, simply, free of charge

or to the account of the relevant natural or legal person.

ContextLocation: Document folders > Site map > Main menu > Supervisory and decision-making activities > Completed

inspections > Inspections for 2021 > Unsolicited commercial communications - 1st half of the year > Commercial

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